
SOLICITATION, OFFER AND AWARD

1. This contract is a rated order under DPAS (15 CFR 700) RATING:

2. CONTRACT NO.

3. SOLICITATION NO.

7-M-APHIS-02

4. TYPE OF SOLICITATION

☐ SEALED BID (IFB)

☒ NEGOTIATED (RFP)

5. DATE ISSUED

11/09/01

6. REQUISITION/PURCHASE NO.

7. ISSUED BY CODE: 126395

USDA, APHIS, MRP-Business Services-
Butler Square, Fifth Floor
100 North Sixth Street
Minneapolis, MN 55403

8. ADDRESS OFFER TO

(If other than Item 7)

NOTE: In sealed bid solicitations, "offer" and "offeror" mean "bid" and "bidder".

SOLICITATION

9. Sealed offers in original and 2 copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if handcarried, in the depository located in , until 2:30 P.M. local time on December 3, 2001.

CAUTION--LATE Submissions, Modifications, and Withdrawals: See Section L, Provision No. 52.214-7 or 52.215-1. All offers are subject to all terms and conditions contained in this solicitation.

10. FOR INFORMATION CALL:

A. NAME:

Robert J. Crowther

B. TELEPHONE NO.

(Include Area Code)
(NO COLLECT CALLS)
612/370-2115

C. E-MAIL ADDRESS

bob.j.crowther@usda.gov

EXCEPTION TO STANDARD FORM 33 (REV.9-97)

Prescribed by GSA
FAR (48 CFR 53.214(c))

SOLICITATION, OFFER AND AWARD

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OFFER (Must be fully completed by offeror)

NOTE: Item 12 does not apply if the solicitation includes the provision at 52.214-16, Minimum Bid Acceptance Period.

12. In compliance with the above, the undersigned agrees, if this offer is accepted within _____ calendar days (60 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule.

13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause No. 52.232-8)

10 CALENDAR DAYS _____ %	20 CALENDAR DAYS _____ %	30 CALENDAR DAYS _____ %	_____ CALENDAR DAYS _____ %
-----------------------------	-----------------------------	-----------------------------	--------------------------------

14. ACKNOWLEDGEMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated:

AMENDMENT NO.	DATE	AMENDMENT NO.	DATE
_____	_____	_____	_____
_____	_____	_____	_____

EXCEPTION TO STANDARD FORM 33 (REV. 9-97)

SOLICITATION, OFFER AND AWARD

15A. NAME AND ADDRESS OF OFFEROR	CODE	FACILITY	16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN (Type or Print)
15B. TELEPHONE NO. (Include Area Code)			17. SIGNATURE
15C. <input type="checkbox"/> CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE			18. OFFER DATE

AWARD (To be completed by Government)

19. ACCEPTED AS TO ITEMS NUMBERED	20. AMOUNT	21. ACCOUNTING AND APPROPRIATION
22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: <input type="checkbox"/> 10 U.S.C. 2304(c) () <input type="checkbox"/> 41 U.S.C. 253(c) ()		
23. SUBMIT INVOICES TO ADDRESS SHOWN IN --> (4 Copies unless otherwise specified)		ITEM 25
24. ADMINISTERED BY (If other than Item 7) (Same As Issuing Office) Attn: Margie Thorson Contract Administrator	CODE	25. PAYMENT WILL BE MADE BY CODE USDA,APHIS,MRP-Business Butler Square, Fifth Floor 100 North Sixth Street Minneapolis, MN 55403
26. NAME OF CONTRACTING OFFICER (Type or Print)	27. UNITED STATE OF AMERICA Signature of Contracting Officer	28. AWARD DATE

IMPORTANT - Award will be made on this Form, or on Standard Form 26, or by other authorized official written notice.

EXCEPTION TO STANDARD FORM 33

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PART I - THE SCHEDULE
SECTION B - SUPPLIES OR SERVICES AND PRICE/COSTS

B.1 SCHEDULE OF ITEMS - BASE PERIOD

BASE PERIOD: Effective Date of Contract through September 30, 2002.

<u>Item No.</u>	<u>Description</u>	<u>Estimated Quantity</u>	<u>Unit of Issue</u>	<u>Unit Price</u>	<u>Extended Amount</u>
1.	Aerial Dispersal of Sterile Fruit Flies.	2000	Flight Hours	\$_____	\$_____
2.	Start-up Fee.	2	Each	\$_____	\$_____

B.2 SCHEDULE OF ITEMS - FIRST OPTION PERIOD

FIRST OPTION PERIOD: October 1, 2002, through September 30, 2003

<u>Item No.</u>	<u>Description</u>	<u>Estimated Quantity</u>	<u>Unit of Issue</u>	<u>Unit Price</u>	<u>Extended Amount</u>
3.	Aerial Dispersal of Sterile Fruit Flies.	2000	Flight Hours	\$_____	\$_____
4.	Start-up Fee.	2	Each	\$_____	\$_____

B.3 SCHEDULE OF ITEMS - SECOND OPTION PERIOD

SECOND OPTION PERIOD: October 1, 2003, through September 30, 2004

<u>Item No.</u>	<u>Description</u>	<u>Estimated Quantity</u>	<u>Unit of Issue</u>	<u>Unit Price</u>	<u>Extended Amount</u>
5.	Aerial Dispersal of Sterile Fruit Flies.	2000	Flight Hours	\$_____	\$_____
6.	Start-up Fee.	2	Each	\$_____	\$_____

B.4 AIRCRAFT DESIGNATED FOR CONTRACT USE

Aircraft (s) Make, Model, and Registration No.

(1)	_____
(2)	_____
(3)	_____
(4)	_____
(5)	_____
(6)	_____
(7)	_____
(8)	_____

B.5 NOTE TO OFFEROR'S

The quantities specified above represent the Government's best estimate for the contract period at the time of issuance of this solicitation. The quantities are based on historical flight activity during the past years. Based on monthly flight activity during the past and present aerial release contracts, it is estimated that 167 flight hours per month will be required if the same criteria of application is used. Depending on the criteria of application used, flight hours will increase and/or decrease accordingly. During the period of performance of the contract, the number of aircraft and crew required may vary from zero to eight. Therefore, there is no guarantee of the number of aircraft and crew needed or flight hours to be flown during the effective period of the contract and there could be periods of time when no aircraft, crew, or service is required. If the workload is decreased or program terminates during the term of the contract, the Government will give the Contractor a ten day notice to terminate aircraft(s) and crew. Due to the uncertainty of needs, performance shall be made "only" as authorized by orders issued by the Contracting Officer or his authorized representative and confirmed by contract modification.

The estimated flight hours referenced in the Base Period and the First and Second Option Periods in the Schedule above is based on flying an estimated 167 hours per month for 12 months.

Start-up fee consists of installing government furnished special purpose equipment in aircraft and ferrying aircraft from the contractor's base of operations to the Sarasota/ Bradenton International Airport (SRQ), Florida, or other designated site.

SECTION C - DESCRIPTION/SPECIFICATIONS/WORK STATEMENT PERFORMANCE WORK STATEMENT

C.1 BACKGROUND

Fruit Flies are occasionally transported inadvertently across our borders and introduced into the environment of the United States by numerous means. These flies come in on various fruits and vegetables in various stages of their life cycles. If allowed to exist in the environment, they could cause millions of dollars in damage and have a significant impact on international and interstate trade. The female flies lay eggs in over 200 varieties of fruit and vegetables. The utilization of the Sterile Insect Technique (SIT) along with spray applications of pesticides is the only current solution to this problem. As a consequence, the Secretary of Agriculture is committing resources to continually introduce sterile fruit flies into areas that have historically been prone to numerous introductions.

The United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), Plant Protection and Quarantine (PPQ), in conjunction with Florida Department of Food and Agriculture & Consumer Services (FDACS), is conducting a Preventative Release Program. A Preventative Release Program is the release of sterilized male fruit flies throughout an area to breed with any introduced female to prevent infestations of this pest.

C 2. SCOPE OF WORK

USDA intends to award a firm, fixed price requirements contract for aircraft and crew services for the aerial release of sterilized fruit flies to support the Mediterranean Fruit Fly Preventative Release Program in the State of Florida and as needed to support additional fruit fly aerial release programs in Florida from proposals received in response to this request for proposals.

The effective period of the contract will be from date of award through September 30, 2002. The contract will have two unilateral 1-year renewal options to extend the term of the contract and a unilateral option to extend the effective period on a month-to-month basis thereafter. The total duration of the contract including all options shall not exceed three years, six months.

C.3 CONTRACTOR PERFORMANCE REQUIREMENTS

The contractor shall provide zero to eight airplanes, as needed during the contract period, with qualified pilots and dispersers for aerial distribution of sterile fruit flies. Special purpose modifications, described herein, will be required for installation of the refrigerated insect release machine and related equipment provided by the Government. The need for aircraft and crew may vary throughout the contract period

C.3 (Continued)

due to unforeseeable events, such as, reduced availability of sterile insects, program changes, or termination of the program. The Contracting Officer will give the contractor 10 days written notice to terminate aircraft and crew. However, the contract will remain in effect for the entire period, including options, in the event aircraft and crews are needed again at a later date.

The contractor shall provide all personnel, labor, supplies, facilitating equipment and associated materials required for the aerial release of sterile insects in accordance with this "performance work statement" (PWS). The contract price shall include all costs associated with the performance of, any and all, releases in the State of Florida, including but not limited to, furnishing and transporting all personnel and equipment to the work site and release areas, providing aircraft, crews, certifications, insurance, licenses, state bonding, permits, fees, general and administrative expenses, and other such costs normally required to perform the services specified herein.

In general, aerial release of sterile fruit flies shall proceed in a timely manner at the proper application rate over designated areas assigned by the Contracting Officer's Representative (COR).

Work shall be performed in a professional manner and Contractors shall comply with Federal and State Department of Agriculture regulations for pest control. Florida regulations require Contractors to be licensed to do business in the State of Florida.

Following installation of the Government furnished insect release machine and Federal Aviation Administration (FAA) approval, the Contractor shall deliver aircraft with qualified pilots and dispersers for aerial distribution of sterile fruit flies to the Sarasota/Bradenton International Airport (SRQ), Florida, or other designated site within "fourteen days after award" of this contract.

Performance shall be in accordance with the Contractor Performance Standards of this contract.

C.4 CONTRACT WORK HOURS

The work day shall begin at the time of arrival at the SIT site. Work days normally consist of an eight hour work day plus a ½ hour lunch break, seven days a week, except for legal holidays, unless otherwise notified by the COR that holiday work is required. All required Contractor's employees will report at the time designated by the COR and will remain on site until released by the COR. Refer to Section C.21, Contractor Performance Standards, of this PWS. Compliance with Contract Work Hour

C.4 (Continued)

requirements.

C.5 CONTRACTORS REPRESENTATIVE

The Contractor shall designate a representative to serve as Program Manager. Refer to Section H. 1 - Key Personnel, for terms and conditions applicable to key personnel. The Contractor's Representative (CR) shall be present at the work site at all times when work under this contract is being performed.

C.6 IMPORTANCE OF STARTING AND ACCOMPLISHING FLIGHTS ON TIME

There are numerous biological, entomological, and physical factors that determine the amount of time insects can be held at the temperature required in the release machine. Therefore, The Contractor **shall begin all flights** within 10 minutes from the time the Government delivers sterile insects to the Contractor in chill boxes. The Contracting Officer may deduct from money due the Contractor, equitable compensation for failure to start or accomplishing flights on time. Refer to Section C.21, Contractor Performance Standards, of this PWS - Quality of Service.

C.7 RATES FOR SERVICES RENDERED

The Contractor shall be paid in accordance with the contract hourly flight rates schedule established for this contract that are acceptably flown and/or accomplished under the direction of the COR. Payment will be made according to hours and tenths of hours as shown on the daily flight records. No payment will be made for any flying not ordered or authorized by the COR. The Contracting Officer may deduct from money due the Contractor, equitable compensation for flights determined by the COR that are not acceptably flown or accomplished. Refer to Section C.21, Contractor Performance Standards, of this PWS - Quality of Service.

C.8 CONTRACTOR LIABILITY

The Contractor is liable for any damages, losses, or injuries to people, property, and animals which occur as a result, directly or indirectly, from its work performed while under contract with USDA. The Contractor shall immediately notify the COR and/or the Contracting Officer of any damages, losses, or injuries occurring during the performance of this contract.

C.9 CONDITION OF EQUIPMENT

The Contractor shall ensure that all aircraft, equipment, and supplies required for use in the performance of this contract are in good operating condition. If in unsatisfactory condition, or otherwise determined by the COR to be unsuitable for safe and efficient performance of the services required of this contract, they shall not be used. They shall be promptly removed from the work site and replaced with aircraft, equipment, and/or supplies that are in good operational condition. Equipment failure is not an acceptable cause for performance delays. The Contracting Officer may deduct from money due the Contractor, equitable compensation for delays caused by non operational equipment. Refer to Section C.21, Contractor Performance Standards, of this PWS.

C.10 PRECAUTIONS/PUBLIC RELATIONS

It is essential for the Contractor and all employees of the Contractor, and their subcontractors, to display a positive image of USDA and FDACS by ensuring that their employees, and the employees of their subcontractors, maintain favorable relations with the general public. Personnel must be courteous in their dealings and communicate in a professional manner with the FAA, military, and Air Traffic Control (ATC) personnel. If restrictions, delays, or other complications result in compromising aerial release operations in any release area caused by unfavorable relations and/or non professional interactions with the general public, FAA, military, or ATC, may result in a immediate termination of the contract for reason of default. Refer to Section C.21, Contractor Performance Standards, of this PWS.

C.11 OPERATING REQUIREMENTS

All aerial distribution of fruit flies will be conducted during daylight hours under VFR conditions and all ATC instructions and airport procedures will be strictly adhered to. At the discretion of the COR , it may be required to operate in IFR conditions to VFR conditions on top for the aerial distribution.

Flights will be conducted 5-7 days per week and approximately 30-35 hours per week of flying will be required. The above flight hours are the estimated minimum number of flight hours required to support present program needs. If areas of sterile insect release expands or reduce, flight hours required will increase/decrease accordingly.

the above figures do not constitute, nor are they to be construed as a guarantee of the volume of work that may be placed on this contract.

Base of operations will be the Sarasota/ Bradenton International Airport (SRQ), Florida, or other suitable site designated by the COR.

C.11 (Continued)

The average operating altitude will be 2,000 feet above ground level or as assigned by the COR or by Air Traffic Control.

Operating release speed will be 160 MPH indicated airspeed, or lower, as assigned by the COR. The estimated average time per load is 2 - 3 hours.

The estimated loads per day for each airplane will be 2 - 3 loads.

A Certificate of Waiver for Federal Aviation Regulations, 14 CFR 91.313(e) will be required.

C.12 CERTIFICATION REQUIREMENTS - STATE/FEDERAL

The contractor will be required to comply with applicable Federal Aviation Agency (FAA) and other State regulations covering operations that will be conducted. The contractor must be licensed to do business in the State of Florida. The contractor's pilots must be licensed and certified by the FAA, the State of Florida, and counties within the State of Florida in which applications are conducted. Immediately upon award of the contract, the contractor shall contact the appropriate offices to identify all FAA, state, and county requirements.

Before award of the contract, the prospective contractor must submit copies of proof for the following:

1. Insurance and/or other requirements, including FAA Certificates of Waiver that apply, must be in effect before starting operations.
2. Documents that shall be available at the reporting airport for inspection by the COR include, but are not limited to; Aircraft Registration and Airworthiness Certificate; aircraft, propeller, and engine log books; pilot and medical certificates; and proof of flight review and insurance. Documents provided for proof of insurance shall clearly state:
 - a. The aircraft registration number
 - b. The period of coverage
 - c. Limits of liability

C.13 AREA COVERED

1. Areas to be flown will be assigned by the COR before each day's operation and may change throughout the day due to weather or other circumstances.
2. The areas to be flown are considered 100 percent congested.

C.14 AIRCRAFT REQUIREMENTS

1. The aircraft will be required to operate in the restricted category.
2. The aircraft furnished shall be a cabin class, turbine powered twin-engine capable of maintaining a cruise speed of 160 MPH. The cabin space behind the crew must be large enough to accommodate installation of the insect release machine furnished by the Government. The insect release machine base is mounted on top of an aluminum frame. A minimum three-inch clearance between the aluminum frame and aircraft floor is required to accommodate the installation of the chute attached to the bottom of the machine. The minimum overall height from the aircraft floor to the cabin ceiling must be 53 inches to accommodate the stackable insect chill box when needed. The insect release machine dimensions and weight of each component are described in the enclosed Attachment I. Cargo doors with a minimum width of 45 inches and minimum height of 35 inches are required to simplify installation of the release machine and loading/unloading the insect holding box. Cargo doors that are less than the specified width and height may be acceptable. They must be approved in advance by the Contracting Officer before contract award. The offeror must provide sufficient information that the equipment can be loaded/unloaded with no adverse safety hazards to personnel or cause damage to equipment or aircraft. An FAA approved third seat must be installed for use by the COR or Program Aerial Coordinator to monitor and/or work on dispersing equipment in flight when necessary.
3. The aircraft will require modifications to accommodate the installation of the insect release machine and related equipment. These modifications include:
 - a. Opening(s) through the floor and belly of the aircraft to allow installation of a chute(s) to carry the insects overboard from the exit opening on the bottom of the insect release machine. See Attachment 2.
 - b. Electrical supply to operate the release machine.
4. The aircraft must be in good operating condition with a current 100-hour inspection with ferry time only from the contractor's base of operation to the

C.14 (Continued)

program base of operations and must be capable of operating at least 30 hours per week with no more than routine maintenance.

5. In addition to the aircraft being equipped for night and IFR flights as described in Federal Aviation Regulation, 14 CFR 91.205, and equipped for operations conducted within Class B Airspace, it shall have the following:
 - a. Dual VHF NAV-COM's
 - b. Automatic Directional Finder
 - c. Dual encoding transponders
 - d. An intercom system with compatible headsets for communications between the pilot, disperser, and the COR.
6. The aircraft shall have a recorder (MASTER SWITCH ACTIVATED NOT ACCEPTED) that will automatically record flight time in hours and tenths of hours. Flight time recorders will be subject to accuracy checks by the COR.
7. The aircraft shall be equipped with a 28-volt electrical system to provide a minimum 45 amperes of electrical power in addition to the normal electrical load required for the aircraft radios and other components. The electrical power is needed to operate the release machine (40 amps).

C.15 AIRCRAFT GUIDANCE AND FLIGHT DATA LOGGING SYSTEM REQUIREMENTS

1. An operational Global Positioning System (GPS) and flight data logging software that will log and display the date and time of the entire flight from takeoff to landing and differentiate between standard flight and flight when the dispersal system is on/off. The system shall provide immediate deviation indications and sufficiently accurate to keep the aircraft on the desired flight path.
2. Compact moving map display with polygon feature that will alert the pilot when the aircraft is entering or exiting a specific geographic polygon.
3. Software designed for parallel offset in increments equal to the assigned swath width of the application aircraft.
4. A course deviation indicator (CDI) or a course deviation light bar, also a CDI, must be installed on the aircraft and in a location that will allow the pilot to view the indicator with direct or peripheral vision without looking down. The CDI must be capable of pilot selected adjustments for course deviation indication with the

C.15 (Continued)

first indication at 3 feet or less.

5. The system must display to the pilot the current swath number and cross-track error. The swath advance may be set manually or automatically. If automatic is selected, the pilot must be able to override the advance mode to allow repeat applications of single or multiple swaths.
6. The system must be equipped with software for flight data logging that has a system memory capable of storing a minimum of 4 hours of continuous flight log data with the logging rate set at one second intervals. The full logging record will include position, time, date, altitude, ground speed, cross-track error, dispersal on/off, insect release machine auger or motor RPM, aircraft registration number, pilot name, and job name or number. The flight data log software shall be compatible with DOS compatible PC computers, dot matrix, laser, or inkjet printers and plotters. The system must compensate for the lag in logging dispersal on/off. The system will display dispersal on/off at the boundary without a saw tooth effect. Must be capable to end log files, rename, and start a new log in flight.
7. The software must generate the map of the entire flight within a reasonable time. Systems that require more than one minute to generate the map for a three hour flight on a PC (minimum 486 microprocessor with 16 MB of memory) will NOT be accepted. When viewed on the monitor or the printed hard copy, the flight path will clearly differentiate between dispersal on/off. The software must be capable of replaying the entire flight in slow motion and stop and restart the replay at any point during the flight. Must be able to zoom to any portion of the flight for viewing in greater detail and print the entire flight or the zoomed-in portion. Must have a measure feature that will measure distance in feet between swaths or any portion of the screen. Must be able to determine the exact latitude/longitude at any point on the monitor.
8. Flight information software provided by the contractor must have the capability to interface with MapInfo (version 4.0 or higher). The interface process must be "user friendly", as program personnel will be responsible to operate the system in order to access the information.
9. The contractor must provide a users manual for the data logger software.
10. It will be the contractors responsibility to provide program personnel with all flight recorded information at the end of each day or when requested. Information should be provided on a standard 3.5" high density diskette or provide the

C.15 (Continued)

downloading device to enable program personnel to retrieve flight information from other types of diskettes.

C.16 CONTRACTOR SHALL BE RESPONSIBLE FOR PROVIDING THE FOLLOWING PERSONNEL

1. A qualified instrument rated Commercial Pilot or Airline Transport Pilot with a current First or Second Class FAA medical certificate for each aircraft who has:
 - a. More than 800 hours total time.
 - b. More than 100 hours multi-engine time as pilot-in-command.
 - c. A minimum of 25 hours pilot-in-command time in the make and model of the aircraft to be used, at least 10 hours of which must have been acquired within the preceding 12 calendar months.
 - d. Ability to operate the electronic guidance system.
2. A qualified disperser/crew member for each aircraft that:
 - a. Has basic mechanical knowledge/skills to learn how to operate, clean, and make minor adjustments to a refrigerated special-purpose insect release machine.
 - b. Is able to work in an environment inside an airplane that can cause motion sickness.
 - c. Is able to fill out daily work sheets and read maps for tracking and reporting activities.
3. Personnel capable of operating and downloading the aircraft flight data logging system and to provide essential training and guidance for project personnel to ensure proper transfer of required mapping data.

C.17 CONTRACTOR AGREES

1. Following installation of the insect release machine and FAA approval, the contractor shall deliver the aircraft to the Mediterranean Fruit Fly Project at the Sarasota/ Bradenton International Airport (SRQ), Florida, or other designated site on the reporting date.
2. To provide aircraft that are fully licensed by the FAA, including approval for installation of the insect release machine. Contractor will be required to furnish certification (FAA Form 337 MAJOR REPAIR AND ALTERATION) that installation has been approved by the FAA.

C.17 (Continued)

3. To accept full responsibility for all equipment and accessories furnished by the Government, normal wear accepted. This will include the satisfactory cleaning of the insect release machine and related parts, as instructed by the COR, between flights when necessary and after the last flight of the work day.
4. To pay all operating expenses of his/her aircraft including maintenance, fuel, servicing, inspection, hangar, tie down, parking fees, pilot salary, and crew member salary.
5. To distribute sterile fruit flies in accordance with instructions issued by the COR.
6. To obtain any waivers and operating permits that may be required by the FAA or any other Federal, State, or County agency.
7. To arrange with the Sarasota/ Bradenton International Airport, or the fixed base operator at designated sites for:
 - a. Parking and/or tie down space and pay for any charges therefore.
 - b. Payment or repair of damage to the airport that results from the contractor's aircraft or equipment.
 - c. Maintaining the areas on the airport used by the contractor in a clean and orderly fashion during and following their use, including a satisfactory cleanup immediately after completion of the flight.
8. To abide by all applicable regulations such as, but not limited to, environmental, security, and facility use of the Sarasota/ Bradenton International Airport, or other base of operations.

C.18 GOVERNMENT AGREES

1. To provide a special purpose refrigerated insect release machine and related equipment for controlled distribution of sterile fruit flies. See Attachment I.
2. To provide briefing information and maps for the flight crew.
3. To provide initial training for special-purpose activities for the pilot and disperser. Replacement or relief personnel will be trained by the contractor.
4. To deliver and assist the contractor in the loading/unloading of the insect holding

C.18 (Continued)

box into the contract aircraft.

5. To provide and maintain a daily aircraft record for each aircraft. This record will show the hours and tenths of hours flown on each trip. The flight time recorder will be used if it is accurate. In the event inaccuracies in the flight time recorder are found and until it can be repaired, flight time will be determined with a watch in possession of the COR or timekeeper.
6. The contractor or CR and the COR or timekeeper will sign this record after each day of operation to acknowledge agreement with all entries. The contractor or CR will receive a copy of this signed daily record.
7. To pay for the maintenance, modifications, and/or repairs of the dispersal machine.

C.19 REPORTING REQUIREMENTS

The reporting date for aircraft and crew is 14 calendar days after receipt of order by the Contracting Officer or the COR. Delivery of Government furnished equipment to the contractor will be made within 5 days after receipt of order. After reporting, one day will be required for inspection by the COR and for crew orientation.

C.20 MUTUAL AGREEMENTS AND UNDERSTANDINGS BY THE GOVERNMENT AND CONTRACTOR

1. The COR may reject any aircraft or GPS that does not comply with the requirements of this solicitation.
2. The COR will determine whether pilots are qualified in accordance with the requirements of this solicitation. The Contractor shall take personnel action against any pilot who operates his/her aircraft in a negligent manner, or fails to perform satisfactorily. The COR reserves the right to dismiss any pilot who operates his/her aircraft in a negligent manner, or fails to perform satisfactorily during the period of this contract. The COR may at any time, require a pilot to demonstrate his/her ability. Such demonstration flights will be made at the expense of the contractor.
3. As used in this contract, "day" means calendar day, seven days per week.
4. The contractor shall not withdraw or substitute any qualified aircraft or pilot without approval of the COR.

C.20 (Continued)

5. The COR or Program Aerial Coordinator will accompany flights as necessary to monitor equipment and/or contractor performance.
6. Time checks may be made of the flight recorder and adjustment or replacement of the recorder will be required if found unacceptable.
7. The COR will determine the time for starting and stopping operations each day. The pilot will be responsible for determining flight conditions and will have the authority to cancel a flight based on weather or other hazardous conditions.
8. The Government will not assume any responsibility whatsoever for loss or damage of equipment owned or operated by the contractor, its agents, employees, or subcontractors for injury to or death of the contractor, its agents, employees, or subcontractors.
9. The contractor will hold and save the Government, its officers, agents, servants, and employees harmless from liability of any nature or kind for or on account of the use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, articles or appliances, used in the performance of this contract, including their use by the Government unless otherwise specifically stipulated in the contract.
10. The contractor will be responsible for any negligent or wrongful acts or omissions of the contractor, its employees, agents, or subcontractors, and employees or agents of the subcontractor(s) incident to the performance of this contract.
11. The contractor will hold and save the Government harmless from all liability for any death or damage to all persons (other than the liability of the Government to USDA employees directly engaged in performing work under this contract as provided under the Federal Employees' Compensation Act) or to real or personal property, including negligent use of spray material which results from operation of, or incident to, equipment furnished by the contractor.
12. The contractor will not be responsible for any negligent or wrongful acts or omission of the USDA, its employees, the USDA cooperators or their employees.

C.21 CONTRACTOR PERFORMANCE STANDARDS

Contractor performance will be monitored throughout the effective period of the contract. The Contractor will be measured based on the following criteria:

C.21 (Continued)

<u>Performance Standard</u>	<u>Maximum Error Rate or Performance Requirement</u>	<u>Deduction Schedule</u>	<u>Method of Surveillance</u>
Compliance with Contract Work Hour Requirements	More than 3 instances of Contractor and/or Subcontractor employees arriving late at work site or departing the work site prior to official release by the Government COR.	No deduction from the amount due for services rendered. However, it may result in the termination of the Contract for cause.	On-site monitoring by USDA/FDACS
Quality of Service	No more than 2 instances of aerial distribution of fruit flies (flights) and/or other instances of the Contractor not otherwise conforming with the performance requirements of this PWS.	No deduction from the amount due for services rendered.	Review of flight data recording Records, statistic sheets, and daily aircraft records.
	3 to 5 instances of aerial distribution of fruit flies (flights) and/or other instances of the Contractor not otherwise conforming with the performance requirements of this PWS.	25% deduction from the amount due for services rendered.	Review of flight data recording Records, statistic sheets, and daily aircraft records.
	More than 5 instances of aerial distribution of fruit flies (flights) and/or other instances of the Contractor not otherwise conforming with the performance requirements of this PWS.	50% deduction from the amount due for services rendered.	Review of flight data recording Records, statistic sheets, and daily aircraft records.

C.21 (Continued)

<u>Performance Standard</u>	<u>Maximum Error Rate or Performance Requirement</u>	<u>Deduction Schedule</u>	<u>Method of Surveillance</u>
	Any scheduled flight not flown that results in the loss of insects.	\$500 for each 1 million fruit flies lost per occurrence.	On-site monitoring by USDA/ FDACS.
Condition of Equipment	No more than 3 flight delays caused by unsuitable aircraft and/or equipment.	No deduction from the amount due for services rendered.	On-site monitoring by USDA/ FDACS
	More than 3 flight delays caused by unsuitable aircraft and/or equipment.	25% deduction from the amount due for services rendered.	On-site monitoring by USDA/ FDACS
Public Relations: Professionalism	Zero tolerance. Contractor shall comply with the requirements of Section C.10 of the contract.	Suspension of work and/or termination of the contract for default.	Observations of USDA/ FDACS personnel and complaints received from the general public, FAA, military, or ATC.

C.22 CONTRACTOR QUALITY CONTROL

According to Federal Acquisition Regulation (FAR) clause, FAR 52.246-4 INSPECTION OF SERVICES - FIXED PRICE (Aug 1996), located in Section E.1, the Government will evaluate the Contractor's performance under any contract awarded under this solicitation. For those tasks identified in the Contractor Performance Standards of the PWS, the COR, or other designated representative of the Contracting Officer will follow the methods of surveillance specified above. Government personnel will record all

surveillance observations. When an observation indicates defective performance, the COR, or other designated representative will require the Contractor's Program Manager, or on-site representative, to initial the written documentation of the observation. The initialing of the observation does not necessarily constitute concurrence with the observation, only acknowledgment that he or she has been made aware of the defective performance. Government surveillance of tasks not listed in the Contractor Performance Standards of the PWS, (such as provided for by the Inspection of Services clause) may occur during the effective period(s) of any contract awarded under this solicitation. Such surveillance will be done according to standard inspection procedures, or other contract provisions. Any action taken by the Contracting Officer, as a result of surveillance, will be in accordance with the terms of the resulting contract.

**C.1 AGAR 452.211-73 ATTACHMENTS TO STATEMENT OF
WORK/SPECIFICATIONS (FEB 1988)**

The attachments to the Statement of Work/Specifications listed in Section J are hereby made part of this solicitation and any resultant contract.

SECTION D - PACKAGING AND MARKING

THERE ARE NO CLAUSES INCLUDED IN THIS SECTION

SECTION E - INSPECTION AND ACCEPTANCE**E.1 52.246-4 INSPECTION OF SERVICES--FIXED-PRICE
(AUG 1996)**

- (a) Definitions. "Services," as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.
- (b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.
- (c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.
- (d) If the Government performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.
- (e) If any of the services do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by reperformance, the Government may (1) require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and (2) reduce the contract price to reflect the reduced value of the services performed.
- (f) If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Government may (1) by contract or otherwise, perform the services and charge to the Contractor any cost incurred by the Government that is directly related to the performance of such service or (2) terminate the contract for default.

SECTION F - DELIVERIES OR PERFORMANCE**F.1 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

www.arnet.gov/far

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES

NUMBER	TITLE	DATE
52.242-15	STOP-WORK ORDER	AUG 1989
52.242-17	GOVERNMENT DELAY OF WORK	APR 1984
52.247-55	F.O.B. POINT FOR DELIVERY OF GOVERNMENT-FURNISHED PROPERTY	APR 1984

F.2 AGAR 452.211-74 PERIOD OF PERFORMANCE (FEB 1988)

The period of performance of this contract is from date of award through September 30, 2002, unless extended or terminated in accordance with other terms and conditions specified herein.

SECTION G - CONTRACT ADMINISTRATION DATA**G.1 DESIGNATION OF CONTRACTING OFFICER'S REPRESENTATIVE**

The Contracting Officer will designate an individual as the Contracting Officer's Representative (COR) at time of award. The COR will be responsible for administering the performance of work under this contract. In no event, however, will any understanding, agreement, modification, change order, or other matter deviating from the terms of this contract be effective or binding upon the Government unless formalized by proper contractual documents executed by the Administrative Contracting Officer or the Contracting Officer prior to completion of the contract.

The Administrative Contracting Officer or the Contracting Officer shall be informed as soon as possible of any actions or inactions by the Contractor or the Government which will change the required delivery or completion times stated in the contract.

Whenever, in the opinion of the Contractor, the COR requests effort outside the scope of the contract, the Contractor should so advise the COR. If the COR persists and there still exists a disagreement as to proper contractual coverage, the Administrative Contracting Officer or the Contracting Officer shall be notified immediately, in writing if time permits. Proceeding with work without proper contractual coverage could result in nonpayment or necessitate submittal of a contract claim.

G.2 DESIGNATION OF ADMINISTRATIVE CONTRACTING OFFICER

The Contracting Officer (CO) hereby designates Margie Thorson, as Administrative Contracting Officer (ACO) for the performance of this contract. Ms. Thorson may be reached at 612/370-2121. (Fax: 612/370-2106).

Ms. Thorson is responsible for the administration and enforcement of the terms conditions of this contract. The ACO shall will be the Contractor's first point of contact for all contractual issues, such as contract performance issues, billing/payment issues, proposed changes, negotiation of contract modifications, interpretation of contract terms and conditions, or other matters that may occur during the life of the contract. The CO reserves the right to final decisions on all matters pertaining to this contract.

In no event, will any understanding, agreement, modification, change order, or other matter deviating from the terms of this contract be effective or binding upon the Government unless it has been discussed with the ACO, approved by the CO, and contract modification executed. Proceeding with work without proper contractual coverage could result in nonpayment or necessitate submittal of a contract claim.

SECTION H - SPECIAL CONTRACT REQUIREMENTS**H.1 AGAR 452.237-74 KEY PERSONNEL (FEB 1988)**

- (a) The Contractor shall assign to this contract the following key personnel:

Program Manager/Supervisor
Pilot(s)
Co-Pilot(s)

- (b) During the first ninety (90) days of performance, the Contractor shall make no substitutions of key personnel unless the substitution is necessitated by illness, death, or termination of employment. The Contractor shall notify the Contracting Officer within 15 calendar days after the occurrence of any of these events and provide the information required by paragraph (c) below. After the initial 90-day period, the Contractor shall submit the information required by paragraph (c) to the Contracting Officer at least 15 days prior to making any permanent substitutions.
- (c) The Contractor shall provide a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any additional information requested by the Contracting Officer. Proposed substitutes should have comparable qualifications to those of the persons being replaced. The Contracting Officer will notify the Contractor within 15 calendar days after receipt of all required information of the decision on substitutions. The contract will be modified to reflect any approved changes of key personnel.

H.2 INSURANCE COVERAGE

Pursuant to Federal Acquisition Regulation (FAR) Part 28.3, the Contractor shall provide evidence to show, at a minimum, the amounts of insurance coverage indicated below. A certificate of insurance coverage identifying the USDA, Animal and Plant Health Inspection Service, as the certificate holder, shall be provided to the Contracting Officer prior to award. The policy shall contain an endorsement stating that any cancellation or material change in the coverage adversely affecting the Government's interest shall not be effective unless the insurer or the Contractor provides the Contracting Officer 30 days written notice alerting him/her of a proposed cancellation or change in the coverage. The Contractor shall not change or decrease coverage without the Contracting Officer's prior approval.

- (a) WORKERS COMPENSATION AND EMPLOYER'S LIABILITY. The Contractor is required to comply with applicable Federal and State workers' compensation and occupational disease statutes.

H.2 (Continued)

If occupational diseases are not compensable under those statutes, they shall be covered under the employer's liability section of the insurance policy, except when contract operations are so commingled with a Contractor's commercial operations that it would not be practical to require this coverage. Employer's liability coverage of at least \$100,000 shall be required, except in States with exclusive or monopolistic funds that do not permit worker's compensation to be written by private carriers.

- (b) General Liability. The Contractor shall have bodily injury liability insurance coverage written on a comprehensive form of policy of at least \$500,000 per occurrence.
- (c) Automobile Liability. The Contractor shall have automobile liability insurance written on a comprehensive form of policy. The policy shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performing the contract. Policies covering automobiles operated in the United States shall provide coverage of at least \$200,000 per person and \$500,000 per occurrence for bodily injury and \$20,000 per occurrence for property damage. The amount of liability coverage on other policies shall be commensurate with any legal requirements of the locality and sufficient to meet normal and customary claims.
- (d) Aircraft Public and Passenger Liability. When aircraft are used in connection with performing the contract, the Contractor shall have aircraft public and passenger liability insurance. Coverage shall be at least \$200,000 per person and \$500,000 per occurrence for bodily injury, other than passenger liability, and \$200,000 per occurrence for property damage. Coverage for passenger liability bodily injury shall be at least \$200,000 multiplied by the number of seats or passengers, whichever is greater.
- (e) Third Party War Risk Liability Insurance. The Contractor shall have coverage, pursuant to the provisions of Chapter 443 of Title 49 of the United States Code (49 - U.S.C. 44301 through 44310 et. seq.) (hereinafter, Chapter 443), Third Party War Risk Liability Insurance (hereinafter the Insurance) of the type indicated and in the limits specified in Chapter 443, or if applicable, the limits established by either the FAA or other Federal or State Government, for War Risk Occurrences arising from the operation of the aircraft, and the provision of goods and services directly related to and necessary for the operation of the aircraft, by the Contractor, its vendors (including, but not limited to, airports and consortia and their subcontractors), agents, and subcontractors of or for goods and services directly related to and necessary for the operation of such aircraft hereinafter, the vendors, agents, and subcontractors), anywhere in the world.

Subject to the limits of liability, exclusions, conditions, and other requirements of 49 - U.S.C. 44301 through 44310 et. seq.,

H.2 (Continued)

or other applicable FAA, Federal or State Government laws, regulations, or policies, coverage shall include payment on behalf of the Contractor all sums which the Contractor is legally liable to pay to any person, or persons who are not passengers or employees of the Contractor, its vendors, agents, and subcontractors, on the aircraft, or by final judgement be adjudged to pay to any such person or persons, including damages for personal injuries sustained, including death at any time resulting therefrom, damages for care and loss of services, or by reason of loss or damage to or destruction of property, including the loss of use thereof, resulting from a loss resulting from a War Risk Occurrence while the aircraft are being operated by or are under the control of the Contractor.

Subject to the limits of liability, exclusions, conditions, and other requirements of 49 - U.S.C. 44301 through 44310 et. seq., or other applicable FAA, Federal or State Government laws, regulations, or policies, coverage shall include payment on behalf of the Contractor all sums which the vendors, agents, and subcontractors are legally liable to pay to any person or persons or entity as a result of such War Risk Occurrence, or by final judgement be adjudged to pay to any such person or persons, including damages for personal injuries sustained, including death at any time resulting therefrom, damages for care and loss of services, or by reason of loss or damage to or destruction of property, including the loss of use thereof, resulting from a loss resulting from a War Risk Occurrence while the aircraft are being operated by or are under the control of the Contractor.

PART II - CONTRACT CLAUSES**SECTION I - CONTRACT CLAUSES****I.1 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

www.arnet.gov/far

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES

NUMBER	TITLE	DATE
52.202-1	DEFINITIONS	MAY 2001
52.203-3	GRATUITIES	APR 1984
52.203-5	COVENANT AGAINST CONTINGENT FEES	APR 1984
52.203-6	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT	JUL 1995
52.203-7	ANTI-KICKBACK PROCEDURES	JUL 1995
52.203-8	CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY	JAN 1997
52.203-10	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY	JAN 1997
52.203-12	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS	JUN 1997
52.204-4	PRINTED/COPIED DOUBLE-SIDED ON RECYCLED PAPER	AUG 2000
52.209-6	PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT	JUL 1995
52.215-2	AUDIT AND RECORDS--NEGOTIATION	JUN 1999
52.215-8	ORDER OF PRECEDENCE--UNIFORM CONTRACT FORMAT	OCT 1997
52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS	OCT 2000
52.219-16	LIQUIDATED DAMAGES--SUBCONTRACTING PLAN	JAN 1999
52.222-3	CONVICT LABOR	AUG 1996
52.222-4	CONTRACT WORK HOURS AND SAFETY STANDARDS	SEP 2000
	ACT--OVERTIME COMPENSATION	

I.1 (Continued)

NUMBER	TITLE	DATE
52.222-21	PROHIBITION OF SEGREGATED FACILITIES	FEB 1999
52.222-26	EQUAL OPPORTUNITY	FEB 1999
52.222-35	AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA	APR 1998
52.222-36	AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES	JUN 1998
52.222-37	EMPLOYMENT REPORTS ON DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA	JAN 1999
52.222-43	FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT--PRICE ADJUSTMENT (MULTIPLE YEAR AND OPTION CONTRACTS)	MAY 1989
52.223-6	DRUG-FREE WORKPLACE	MAY 2001
52.223-14	TOXIC CHEMICAL RELEASE REPORTING	OCT 2000
52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES	JUL 2000
52.227-1	AUTHORIZATION AND CONSENT	JUL 1995
52.229-3	FEDERAL, STATE, AND LOCAL TAXES	JAN 1991
52.229-5	TAXES - CONTRACTS PERFORMED IN U.S. POSSESSIONS OR PUERTO RICO	APR 1984
52.232-1	PAYMENTS	APR 1984
52.232-8	DISCOUNTS FOR PROMPT PAYMENT	MAY 1997
52.232-11	EXTRAS	APR 1984
52.232-17	INTEREST	JUN 1996
52.232-18	AVAILABILITY OF FUNDS	APR 1984
52.232-23	ASSIGNMENT OF CLAIMS	JAN 1986
52.232-25	PROMPT PAYMENT	MAY 2001
52.233-1	DISPUTES	DEC 1998
52.233-3	PROTEST AFTER AWARD	AUG 1996
52.242-13	BANKRUPTCY	JUL 1995
52.243-1	CHANGES - FIXED-PRICE Alternate I (APR 1984)	AUG 1987
52.249-2	TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE)	SEP 1996
52.249-8	DEFAULT (FIXED-PRICE SUPPLY AND SERVICE)	APR 1984
52.253-1	COMPUTER GENERATED FORMS	JAN 1991

I.2 52.216-18 ORDERING (OCT 1995)

- (a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from the effective date of the contract through September 30, 2002.
- (b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the

I.2 (Continued)

contract shall control.

- (c) If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

I.3 52.216-19 ORDER LIMITATIONS (OCT 1995)

- (a) Minimum order. When the Government requires supplies or services covered by this contract in an amount of less than 1 aircraft/crew, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.
- (b) Maximum order. The Contractor is not obligated to honor--
 - (1) Any order for a single item in excess of 8 aircraft/crew;
 - (2) Any order for a combination of items in excess of 8 aircraft/crew; or
 - (3) A series of orders from the same ordering office within 2 days days that together call for quantities exceeding the limitation in subparagraph (b)(1) or (2) of this section.
- (c) If this is a requirements contract (i.e., includes the Requirements clause at subsection 52.216-21 of the Federal Acquisition Regulation (FAR)), the Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum-order limitations in paragraph (b) of this section.
- (d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within 2 days days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

I.4 52.216-21 REQUIREMENTS (OCT 1995)

- (a) This is a requirements contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies or services specified in the Schedule are estimates only and are not purchased by this contract. Except as this contract may otherwise provide, if the Government's requirements do not result in orders in the quantities described as "estimated" or "maximum" in the Schedule, that fact shall not constitute the basis for an equitable price adjustment.

I.4 (Continued)

- (b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. Subject to any limitations in the Order Limitations clause or elsewhere in this contract, the Contractor shall furnish to the Government all supplies or services specified in the Schedule and called for by orders issued in accordance with the Ordering clause. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.
- (c) Except as this contract otherwise provides, the Government shall order from the Contractor all the supplies or services specified in the Schedule that are required to be purchased by the Government activity or activities specified in the Schedule.
- (d) The Government is not required to purchase from the Contractor requirements in excess of any limit on total orders under this contract.
- (e) If the Government urgently requires delivery of any quantity of an item before the earliest date that delivery may be specified under this contract, and if the Contractor will not accept an order providing for the accelerated delivery, the Government may acquire the urgently required goods or services from another source.
- (f) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after the last day of the effective period, including options.

**I.5 52.219-4 NOTICE OF PRICE EVALUATION PREFERENCE
FOR HUBZONE SMALL BUSINESS CONCERNS (JAN 1999)**

- (a) Definition. "HUBZone small business concern," as used in this clause, means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.
- (b) Evaluation preference.
 - (1) Offers will be evaluated by adding a factor of 10 percent to the price of all offers, except--
 - (i) Offers from HUBZone small business concerns that have not waived the evaluation preference;

I.5 (Continued)

- (ii) Otherwise successful offers from small business concerns;
 - (iii) Otherwise successful offers of eligible products under the Trade Agreements Act when the dollar threshold for application of the Act is exceeded (see 25.402 of the Federal Acquisition Regulation (FAR)); and
 - (iv) Otherwise successful offers where application of the factor would be inconsistent with a Memorandum of Understanding or other international agreement with a foreign government.
- (2) The factor of 10 percent shall be applied on a line item basis or to any group of items on which award may be made. Other evaluation factors described in the solicitation shall be applied before application of the factor.
- (3) A concern that is both a HUBZone small business concern and a small disadvantaged business concern will receive the benefit of both the HUBZone small business price evaluation preference and the small disadvantaged business price evaluation adjustment (see FAR clause 52.219-23). Each applicable price evaluation preference or adjustment shall be calculated independently against an offeror's base offer. These individual preference amounts shall be added together to arrive at the total evaluated price for that offer.
- (c) Waiver of evaluation preference. A HUBZone small business concern may elect to waive the evaluation preference, in which case the factor will be added to its offer for evaluation purposes. The agreements in paragraph (d) of this clause do not apply if the offeror has waived the evaluation preference.
- [__] Offeror elects to waive the evaluation preference.
- (d) Agreement. A HUBZone small business concern agrees that in the performance of the contract, in the case of a contract for--
- (1) Services (except construction), at least 50 percent of the cost of personnel for contract performance will be spent for employees of the concern or employees of other HUBZone small business concerns;
 - (2) Supplies (other than procurement from a nonmanufacturer of such supplies), at least 50 percent of the cost of manufacturing, excluding the cost of materials, will be performed by the concern or other HUBZone small business concerns;
 - (3) General construction, at least 15 percent of the cost of the contract performance incurred for personnel will be spent on the concern's employees or the employees of other HUBZone

I.5 (Continued)

small business concerns; or

- (4) Construction by special trade contractors, at least 25 percent of the cost of the contract performance incurred for personnel will be spent on the concern's employees or the employees of other HUBZone small business concerns.
- (e) A HUBZone joint venture agrees that in the performance of the contract, the applicable percentage specified in paragraph (d) of this clause will be performed by the HUBZone small business participant or participants.
- (f) A HUBZone small business concern nonmanufacturer agrees to furnish in performing this contract only end items manufactured or produced by HUBZone small business manufacturer concerns. This paragraph does not apply in connection with construction or service contracts.

**I.6 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (OCT 2000)
Alternate II (OCT 2000)**

(a) This clause does not apply to small business concerns.

(b) Definitions. As used in this clause--

"Commercial item" means a product or service that satisfies the definition of commercial item in section 2.101 of the Federal Acquisition Regulation.

"Commercial plan" means a subcontracting plan (including goals) that covers the offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line).

"Individual contract plan" means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror's planned subcontracting in support of the specific contract, except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

"Master plan" means a subcontracting plan that contains all the required elements of an individual contract plan, except goals, and may be incorporated into individual contract plans, provided the master plan has been approved.

"Subcontract" means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

(c) Proposals submitted in response to this solicitation shall include

I.6 (Continued)

a subcontracting plan that separately addresses subcontracting with small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. If the offeror is submitting an individual contract plan, the plan must separately address subcontracting with small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate a subcontracting plan shall make the offeror ineligible for award of a contract.

(d) The offeror's subcontracting plan shall include the following:

- (1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. Service-disabled veteran-owned small business concerns meet the definition of veteran-owned small business concerns, and offerors may include them within the subcontracting plan goal for veteran-owned small business concerns. A separate goal for service-disabled veteran-owned small business concerns is not required. The offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs.
- (2) A statement of--
 - (i) Total dollars planned to be subcontracted for an individual contract plan; or the offeror's total projected sales, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan;
 - (ii) Total dollars planned to be subcontracted to small business concerns;
 - (iii) Total dollars planned to be subcontracted to veteran-owned small business concerns;
 - (iv) Total dollars planned to be subcontracted to HUBZone small business concerns;
 - (v) Total dollars planned to be subcontracted to small disadvantaged business concerns; and
 - (vi) Total dollars planned to be subcontracted to women-owned small business concerns.

I.6 (Continued)

- (3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to --
 - (i) Small business concerns;
 - (ii) Veteran-owned small business concerns;
 - (iii) HUBZone small business concerns;
 - (iv) Small disadvantaged business concerns; and
 - (v) Women-owned small business concerns.
- (4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.
- (5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the Procurement Marketing and Access Network (PRO-Net) of the Small Business Administration (SBA), veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). A firm may rely on the information contained in PRO- Net as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran- owned small, HUBZone small, small disadvantaged, and women-owned small business source list. Use of PRO-Net as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.
- (6) A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with --
 - (i) Small business concerns;
 - (ii) Veteran-owned small business concerns;
 - (iii) HUBZone small business concerns;
 - (iv) Small disadvantaged business concerns; and
 - (v) Women-owned small business concerns.
- (7) The name of the individual employed by the offeror who will administer the offeror's subcontracting program, and a description of the duties of the individual.

I.6 (Continued)

- (8) A description of the efforts the offeror will make to assure that small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns have an equitable opportunity to compete for subcontracts.
- (9) Assurances that the offeror will include the clause of this contract entitled "Utilization of Small Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of \$500,000 (\$1,000,000 for construction of any public facility) to adopt a subcontracting plan that complies with the requirements of this clause.
- (10) Assurances that the offeror will--
 - (i) Cooperate in any studies or surveys as may be required;
 - (ii) Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;
 - (iii) Submit Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and/or SF 295, Summary Subcontract Report, in accordance with paragraph (j) of this clause. The reports shall provide information on subcontract awards to small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, small disadvantaged business concerns, women-owned small business concerns, and Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with the instructions on the forms or as provided in agency regulations.
 - (iv) Ensure that its subcontractors agree to submit SF 294 and SF 295.
- (11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror's efforts to locate small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

I.6 (Continued)

- (i) Source lists (e.g., PRO-Net), guides, and other data that identify small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.
- (ii) Organizations contacted in an attempt to locate sources that are small business, veteran-owned small business, HUBZone small business, small disadvantaged business or women-owned small business concerns.
- (iii) Records on each subcontract solicitation resulting in an award of more than \$100,000, indicating --
 - (A) Whether small business concerns were solicited and, if not, why not;
 - (B) Whether veteran-owned small business concerns were solicited and, if not, why not;
 - (C) Whether HUBZone small business concerns were solicited and, if not, why not;
 - (D) Whether small disadvantaged business concerns were solicited and, if not, why not;
 - (E) Whether women-owned small business concerns were solicited and, if not, why not; and
 - (F) If applicable, the reason award was not made to a small business concern.
- (iv) Records of any outreach efforts to contact --
 - (A) Trade associations;
 - (B) Business development organizations;
 - (C) Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, and women-owned small business sources; and
 - (D) Veterans service organizations.
- (v) Records of internal guidance and encouragement provided to buyers through --
 - (A) Workshops, seminars, training, etc.; and
 - (B) Monitoring performance to evaluate compliance with the program's requirements.
- (vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government,

I.6 (Continued)

including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.

- (e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:
- (1) Assist small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor's lists of potential small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.
 - (2) Provide adequate and timely consideration of the potentialities of small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in all "make-or-buy" decisions.
 - (3) Counsel and discuss subcontracting opportunities with representatives of small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business firms.
 - (4) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, veteran-owned small business, HUBZone small, small disadvantaged, or women-owned small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor's subcontracting plan.
- (f) A master plan on a plant or division-wide basis that contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided--
- (1) The master plan has been approved;
 - (2) The offeror ensures that the master plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval, to the Contracting Officer; and
 - (3) Goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this

I.6 (Continued)

contract are set forth in the individual subcontracting plan.

- (g) A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror's planned subcontracting generally, for both commercial and Government business, rather than solely to the Government contract. Commercial plans are also preferred for subcontractors that provide commercial items under a prime contract, whether or not the prime contractor is supplying a commercial item.
- (h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.
- (i) The failure of the Contractor or subcontractor to comply in good faith with --
 - (1) The clause of this contract entitled "Utilization of Business Concerns;" or
 - (2) An approved plan required by this clause, shall be a material breach of the contract.
- (j) The Contractor shall submit the following reports:
 - (1) Standard Form 294, Subcontracting Report for Individual Contracts. This report shall be submitted to the Contracting Officer semiannually and at contract completion. The report covers subcontract award data related to this contract. This report is not required for commercial plans.
 - (2) Standard Form 295, Summary Subcontract Report. This report encompasses all of the contracts with the awarding agency. It must be submitted semi-annually for contracts with the Department of Defense and annually for contracts with civilian agencies. If the reporting activity is covered by a commercial plan, the reporting activity must report annually all subcontract awards under that plan. All reports submitted at the close of each fiscal year (both individual and commercial plans) shall include a breakout, in the Contractor's format, of subcontract awards, in whole dollars, to small disadvantaged business concerns by North American Industry Classification System (NAICS) Industry Subsector. For a commercial plan, the Contractor may obtain from each of its subcontractors a predominant NAICS Industry Subsector and report all awards to that subcontractor under its predominant NAICS Industry Subsector.

**I.7 52.219-23 NOTICE OF PRICE EVALUATION ADJUSTMENT FOR
SMALL DISADVANTAGED BUSINESS CONCERNS (MAY 2001)**

(a) Definitions. As used in this clause--

"Small disadvantaged business concern" means an offeror that represents, as part of its offer, that it is a small business under the size standard applicable to this acquisition; and either--

- (1) It has received certification by the Small Business Administration as a small disadvantaged business concern consistent with 13 CFR 124, Subpart B; and
 - (i) No material change in disadvantaged ownership and control has occurred since its certification;
 - (ii) Where the concern is owned by one or more disadvantaged individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and
 - (iii) It is identified, on the date of its representation, as a certified small disadvantaged business concern in the database maintained by the Small Business Administration (PRO-Net).
- (2) It has submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR part 124, subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted. In this case, in order to receive the benefit of a price evaluation adjustment, an offeror must receive certification as a small disadvantaged business concern by the Small Business Administration prior to contract award; or
- (3) Is a joint venture as defined in 13 CFR 124.1002(f).

"Historically black college or university" means an institution determined by the Secretary of Education to meet the requirements of 34 CFR 608.2. For the Department of Defense (DoD), the National Aeronautics and Space Administration (NASA), and the Coast Guard, the term also includes any nonprofit research institution that was an integral part of such a college or university before November 14, 1986.

"Minority institution" means an institution of higher education meeting the requirements of Section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1067k, including a

I.7 (Continued)

Hispanic-serving institution of higher education, as defined in Section 316(b)(1) of the Act (20 U.S.C. 1101a)).

"United States" means the United States, its territories and possessions, the Commonwealth of Puerto Rico, the U.S. Trust Territory of the Pacific Islands, and the District of Columbia.

(b) Evaluation adjustment.

(1) The Contracting Officer will evaluate offers by adding a factor of 10% percent to the price of all offers, except--

- (i) Offers from small disadvantaged business concerns that have not waived the adjustment;
- (ii) An otherwise successful offer of eligible products under the Trade Agreements Act when the dollar threshold for application of the Act is equaled or exceeded (see section 25.402 of the Federal Acquisition Regulation (FAR));
- (iii) An otherwise successful offer where application of the factor would be inconsistent with a Memorandum of Understanding or other international agreement with a foreign government;
- (iv) For DoD, NASA, and Coast Guard acquisitions, an otherwise successful offer from a historically black college or university or minority institution; and
- (v) For DoD acquisitions, an otherwise successful offer of qualifying country end products (see sections 225.000-70 and 252.225-7001 of the Defense FAR Supplement).

(2) The Contracting Officer will apply the factor to a line item or a group of line items on which award may be made. The Contracting Officer will apply other evaluation factors described in the solicitation before application of the factor. The factor may not be applied if using the adjustment would cause the contract award to be made at a price that exceeds the fair market price by more than the factor in paragraph (b)(1) of this clause.

(c) Waiver of evaluation adjustment. A small disadvantaged business concern may elect to waive the adjustment, in which case the factor will be added to its offer for evaluation purposes. The agreements in paragraph (d) of this clause do not apply to offers that waive the adjustment.

_____ Offeror elects to waive the adjustment.

I.7 (Continued)**(d) Agreements.**

- (1) A small disadvantaged business concern, that did not waive the adjustment, agrees that in performance of the contract, in the case of a contract for--
 - (i) Services, except construction, at least 50 percent of the cost of personnel for contract performance will be spent for employees of the concern;
 - (ii) Supplies (other than procurement from a nonmanufacturer of such supplies), at least 50 percent of the cost of manufacturing, excluding the cost of materials, will be performed by the concern;
 - (iii) General construction, at least 15 percent of the cost of the contract, excluding the cost of materials, will be performed by employees of the concern; or
 - (iv) Construction by special trade contractors, at least 25 percent of the cost of the contract, excluding the cost of materials, will be performed by employees of the concern.
- (2) A small disadvantaged business concern submitting an offer in its own name agrees to furnish in performing this contract only end items manufactured or produced by small disadvantaged business concerns in the United States. This paragraph does not apply in connection with construction or service contracts.

**I.8 52.222-41 SERVICE CONTRACT ACT OF 1965, AS AMENDED
(MAY 1989)**

- (a) Definitions. "Act," as used in this clause, means the Service Contract Act of 1965, as amended (41 U.S.C. 351, et seq.).

"Contractor," as used in this clause or in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government Prime Contractor."

"Service Employee," as used in this clause, means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as these terms are defined in Part 541 of Title 29, Code of Federal Regulations, as revised. It includes all such persons regardless of any contractual relationship that may be alleged to exist between a Contractor or subcontractor and such persons.

I.8 (Continued)

- (b) Applicability. This contract is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor (29 CFR Part 4). This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in Subpart C of 29 CFR Part 4.
- (c) Compensation. (1) Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor, or authorized representative, as specified in any wage determination attached to this contract.
- (2) (i) If a wage determination is attached to this contract, the Contractor shall classify any class of service employee which is not listed therein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination) so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph (c).
- (ii) This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee. The Contractor shall submit Standard Form (SF) 1444, Request for Authorization of Additional Classification and Rate, to the Contracting Officer no later than 30 days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and promptly submit the completed SF 1444 (which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the Contracting Officer within 30 days of receipt that additional

I.8 (Continued)

time is necessary.

- (iii) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the Contracting Officer who shall promptly notify the Contractor of the action taken. Each affected employee shall be furnished by the Contractor with a written copy of such determination or it shall be posted as a part of the wage determination.
- (iv) (A) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.
- (B) In the case of a contract modification an exercise of an option, or extension of an existing contract, or in any other case where a Contractor succeeds a contract under which the classification in question was previously conformed pursuant to paragraph (c) of this clause, a new conformed wage rate and fringe benefits may be assigned to the conformed classification by indexing (i.e., adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the Contractor shall advise

I.8 (Continued)

the Contracting Officer of the action taken but the other procedures in subdivision (c)(2)(ii) of this clause need not be followed.

- (C) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.
- (v) The wage rate and fringe benefits finally determined under this subparagraph (c)(2) of this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract.
- (vi) Upon discovery of failure to comply with subparagraph (c)(2) of this clause, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class or classes of employees commenced contract work.
- (3) Adjustments of Compensation. If the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees under this contract shall be subject to adjustment after 1 year and not less often than once every 2 years, under wage determinations issued by the Wage and Hour Division.
- (d) Obligation to Furnish Fringe Benefits. The Contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined under subparagraph (c)(2) of this clause by furnishing equivalent combinations of bona fide fringe benefits, or by making equivalent or differential cash payments, only in accordance with Subpart D of 29 CFR Part 4.
- (e) Minimum Wage. In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor under this contract shall pay any person performing work under this contract (regardless of whether the person is a service employee) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this clause shall relieve the Contractor or any subcontractor of any other obligation under law or

I.8 (Continued)

contract for payment of a higher wage to any employee.

- (f) Successor Contracts. If this contract succeeds a contract subject to the Act under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreement, to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of 29 CFR 4.1(b) apply or unless the Secretary of Labor or the Secretary's authorized representative finds, after a hearing as provided in 29 CFR 4.10 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.
- (g) Notification to Employees. The Contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid

I.8 (Continued)

pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of section 2(a)(4) of the Act and of this contract.

- (h) Safe and Sanitary Working Conditions. The Contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor or subcontractor which are unsanitary, hazardous, or dangerous to the health or safety of the service employees. The Contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.
- (i) Records. (1) The Contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work, and make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration, a record of the following:
 - (i) For each employee subject to the Act--
 - (A) Name and address and social security number;
 - (B) Correct wage classification or classifications, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation.
 - (C) Daily and weekly hours worked by each employee; and
 - (D) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.
 - (ii) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by the Administrator or authorized representative under the terms of paragraph (c) of this clause. A copy of the report required by subdivision(C)(2)(ii) of this clause will fulfill this requirement.
 - (iii) Any list of the predecessor Contractor's employees which had been furnished to the Contractor as prescribed by paragraph (n) of this clause.
- (2) The Contractor shall also make available a copy of this

I.8 (Continued)

contract for inspection or transcription by authorized representatives of the Wage and Hour Division.

- (3) Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce these records, the Contracting Officer, upon direction of the Department of Labor and notification to the Contractor, shall take action to cause suspension of any further payment or advance of funds until the violation ceases.
- (4) The Contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.
- (j) Pay Periods. The Contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or Regulations, 29 CFR Part 4), rebate or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.
- (k) Withholding of Payments and Termination of Contract. The Contracting Officer shall withhold or cause to be withheld from the Government Prime Contractor under this or any other Government contract with the Prime Contractor such sums as an appropriate official of the Department of Labor requests or such sums as the Contracting Officer decides may be necessary to pay underpaid employees employed by the Contractor or subcontractor. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the Contracting Officer may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.
- (l) Subcontracts. The Contractor agrees to insert this clause in all subcontracts subject to the Act.
- (m) Collective Bargaining Agreements Applicable to Service Employee. If wages to be paid or fringe benefits to be furnished any service employees employed by the Government Prime Contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is

I.8 (Continued)

being performed, the Government Prime Contractor shall report such fact to the Contracting Officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance such agreements shall be reported promptly after negotiation thereof.

- (n) Seniority List. Not less than 10 days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a Contractor (predecessor) or successor (29 CFR 4.173) the incumbent Prime Contractor shall furnish the Contracting Officer a certified list of the names, of all service employees on the Contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor Contractors of each such service employee. The Contracting Officer shall turn over such list to the successor Contractor at the commencement of the succeeding contract.
- (o) Rulings and Interpretations. Rulings and interpretations of the Act are contained in Regulations, 29 CFR Part 4.
- (p) Contractor's Certification. (1) By entering into this contract, the Contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed under section 5 of the Act.
 - (2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract under section 5 of the Act.
 - (3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.
- (q) Variations, Tolerances, and Exemptions Involving Employment. Notwithstanding any of the provisions in paragraphs (b) through (o) of this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act prior to this amendment by Pub. L 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the

I.8 (Continued)

conduct of Government business.

- (1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical or mental deficiency or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Act without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of the Act, in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR Parts 520, 521, 524, and 525).
 - (2) The Administrator will issue certificates under the Act for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR Parts 520, 521, 524, and 525).
 - (3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in 29 CFR Parts 525 and 528.
- (r) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, Employment and Training Administration, U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program.

I.8 (Continued)

- (s) Tips. An employee engaged in an occupation in which the employee customarily and regularly receives more than \$30 a month in tips may have the amount of these tips credited by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act, in accordance with section 3(m) of the Fair Labor Standards Act and Regulations 29 CFR Part 531. However, the amount of credit shall not exceed \$1.34 per hour beginning January 1, 1981. To use this provision--
- (1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;
 - (2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);
 - (3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Act minimum wage through the combination of direct wages and tip credit; and
 - (4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of section 4(c) of the Act.
- (t) Disputes Concerning Labor Standards. The U.S. Department of Labor has set forth in 29 CFR Parts 4, 6, and 8 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

**I.9 52.222-42 STATEMENT OF EQUIVALENT RATES FOR
FEDERAL HIRES (MAY 1989)**

In compliance with the Service Contract Act of 1965, as amended, and the regulations of the Secretary of Labor (29 CFR Part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332.

THIS STATEMENT IS FOR INFORMATION ONLY: IT IS NOT A WAGE DETERMINATION.

I.9 (Continued)

Employee class	Monetary Wage	Fringe Benefits
Pilot	\$23.78	2.02
Co-pilot	\$23.00	2.02
Aircraft Mechanic	\$14.59	2.02
Laborer	\$10.48	2.02

I.10 52.223-12 REFRIGERATION EQUIPMENT AND AIR CONDITIONERS (MAY 1995)

The Contractor shall comply with the applicable requirements of Sections 608 and 609 of the Clean Air Act (42 U.S.C. 7671g and 7671h) as each or both apply to this contract.

I.11 52.232-34 PAYMENT BY ELECTRONIC FUNDS TRANSFER-- OTHER THAN CENTRAL CONTRACTOR REGISTRATION (MAY 1999)**(a) Method of payment.**

- (1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT) except as provided in paragraph (a)(2) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.
- (2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either--
 - (i) Accept payment by check or some other mutually agreeable method of payment; or
 - (ii) Request the Government to extend payment due dates until such time as the Government makes payment by EFT (but see paragraph (d) of this clause).

(b) Mandatory submission of Contractor's EFT information.

- (1) The Contractor is required to provide the Government with the information required to make payment by EFT (see paragraph (j) of this clause). The Contractor shall provide this information directly to the office designated in this contract to receive that information (hereafter: "designated office") no later than 15 days prior to submission of the first request for payment. If not otherwise specified in this contract, the payment office is the designated office for receipt of the Contractor's EFT information. If more than one designated office is named for the contract, the Contractor shall provide a separate notice to each office. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the

I.11 (Continued)

designated office(s).

- (2) If the Contractor provides EFT information applicable to multiple contracts, the Contractor shall specifically state the applicability of this EFT information in terms acceptable to the designated office. However, EFT information supplied to a designated office shall be applicable only to contracts that identify that designated office as the office to receive EFT information for that contract.
- (c) Mechanisms for EFT payment. The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR part 210.
- (d) Suspension of payment. (1) The Government is not required to make any payment under this contract until after receipt, by the designated office, of the correct EFT payment information from the Contractor. Until receipt of the correct EFT information, any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(2) If the EFT information changes after submission of correct EFT information, the Government shall begin using the changed EFT information no later than 30 days after its receipt by the designated office to the extent payment is made by EFT. However, the Contractor may request that no further payments be made until the updated EFT information is implemented by the payment office. If such suspension would result in a late payment under the prompt payment terms of this contract, the Contractor's request for suspension shall extend the due date for payment by the number of days of the suspension.
- (e) Liability for uncompleted or erroneous transfers. (1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for--
 - (i) Making a correct payment;
 - (ii) Paying any prompt payment penalty due; and
 - (iii) Recovering any erroneously directed funds.
(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was

I.11 (Continued)

revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and--

- (i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or
 - (ii) If the funds remain under the control of the payment office, the Government shall not make payment and the provisions of paragraph (d) shall apply.
- (f) EFT and prompt payment. A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.
- (g) EFT and assignment of claims. If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall provide the EFT information required by paragraph (j) of this clause to the designated office, and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.
- (h) Liability for change of EFT information by financial agent. The Government is not liable for errors resulting from changes to EFT information provided by the Contractor's financial agent.
- (i) Payment information. The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the

I.11 (Continued)

Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address in the contract.

- (j) EFT information. The Contractor shall provide the following information to the designated office. The Contractor may supply this data for this or multiple contracts (see paragraph (b) of this clause). The Contractor shall designate a single financial agent per contract capable of receiving and processing the EFT information using the EFT methods described in paragraph (c) of this clause.

- (1) The contract number (or other procurement identification number).
- (2) The Contractor's name and remittance address, as stated in the contract(s).
- (3) The signature (manual or electronic, as appropriate), title, and telephone number of the Contractor official authorized to provide this information.
- (4) The name, address, and 9-digit Routing Transit Number of the Contractor's financial agent.
- (5) The Contractor's account number and the type of account (checking, saving, or lockbox).
- (6) If applicable, the Fedwire Transfer System telegraphic abbreviation of the Contractor's financial agent.
- (7) If applicable, the Contractor shall also provide the name, address, telegraphic abbreviation, and 9-digit Routing Transit Number of the correspondent financial institution receiving the wire transfer payment if the Contractor's financial agent is not directly on-line to the Fedwire Transfer System; and, therefore, not the receiver of the wire transfer payment.

**I.12 52.236-7 PERMITS AND RESPONSIBILITIES
(NOV 1991)**

The Contractor shall, without additional expense to the Government, be responsible for obtaining any necessary licenses and permits, and for complying with any Federal, State, and municipal laws, codes, and regulations applicable to the performance of the work. The Contractor shall also be responsible for all damages to persons or property that occur as a result of the Contractor's fault or negligence. The Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.

I.13 52.237-3 CONTINUITY OF SERVICES (JAN 1991)

- (a) The Contractor recognizes that the services under this contract are vital to the Government and must be continued without interruption and that, upon contract expiration, a successor, either the Government or another contractor, may continue them. The Contractor agrees to (1) furnish phase-in training and (2) exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.
- (b) The Contractor shall, upon the Contracting Officer's written notice, (1) furnish phase-in, phase-out services for up to 90 days after this contract expires and (2) negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required. The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the Contracting Officer's approval. The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this contract are maintained at the required level of proficiency.
- (c) The Contractor shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this contract. The Contractor also shall disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the Contractor shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.
- (d) The Contractor shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations) and a fee (profit) not to exceed a pro rata portion of the fee (profit) under this contract.

I.14 52.245-1 PROPERTY RECORDS (APR 1984)

The Government shall maintain the Government's official property records in connection with Government property under this contract. The Government Property clause is hereby modified by deleting the requirement for the Contractor to maintain such records.

I.15 52.245-4 GOVERNMENT-FURNISHED PROPERTY (SHORT FORM) (APR 1984)

- (a) The Government shall deliver to the Contractor, at the time and locations stated in this contract, the Government-furnished property described in the Schedule or specifications. If that property, suitable for its intended use, is not delivered to the Contractor, the Contracting

I.15 (Continued)

Officer shall equitably adjust affected provisions of this contract in accordance with the Changes clause when--

- (1) The Contractor submits a timely written request for an equitable adjustment; and
 - (2) The facts warrant an equitable adjustment.
- (b) Title to Government-furnished property shall remain in the Government. The Contractor shall use the Government-furnished property only in connection with this contract. The Contractor shall maintain adequate property control records in accordance with sound industrial practice and will make such records available for Government inspection at all reasonable times, unless the clause at Federal Acquisition Regulation 52.245-1, Property Records, is included in this contract.
- (c) Upon delivery of Government-furnished property to the Contractor, the Contractor assumes the risk and responsibility for its loss or damage, except--
- (1) For reasonable wear and tear;
 - (2) To the extent property is consumed in performing this contract; or
 - (3) As otherwise provided for by the provisions of this contract.
- (d) Upon completing this contract, the Contractor shall follow the instructions of the Contracting Officer regarding the disposition of all Government-furnished property not consumed in performing this contract or previously delivered to the Government. The Contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of the Government property, as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the contract price or shall be paid to the Government as directed by the Contracting Officer.
- (e) If this contract is to be performed outside the United States of America, its territories, or possessions, the words "Government" and "Government-furnished" (wherever they appear in this clause) shall be construed as "United States Government" and "United States Government-furnished," respectively.

**I.16 AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR
(FAR 52.232.19) (APR 1984)**

Funds are not presently available for performance of this contract beyond September 30, 2002. The Government's obligation for performance of this contract beyond that date is contingent upon the availability of appropriated funds from which payment for contract purposes can be

I.16 (Continued)

made. No legal liability on the part of the Government for any payment may arise for performance under this contract beyond September 30, 2002, until funds are made available to the Contracting Officer for performance and until the Contractor receives notice of availability, to be confirmed in writing by the Contracting Officer.

I.17 AGAR 452.217-78 OPTION TO EXTEND THE TERM OF THE CONTRACT--FIXED-PRICE CONTRACT (FEB 1988)

- (a) The Government has the option to extend the term of this contract for 2 additional period(s). If more than 60 days remain in the contract period of performance, the Government, without prior written notification, may exercise this option by issuing a contract modification. To exercise this option within the last 60 days of the period of performance, the Government must provide to the Contractor written notification prior to that last 60-day period.

This preliminary notification does not commit the Government to exercising the option.

- (b) Exercise of an option will result in the following contract modifications:

The "Period of Performance" clause will be modified as follows:

Period	Start Date	End Date
Option Period 1	Ocotber 1, 2002	September 30, 2003
Option Period 2	October 1, 2003	September 30, 2004

I.18 FAR 52.217-8 OPTION TO EXTEND SERVICES (NOV 1999)

The Government may require continued performance of any within the limits and at the rates specified in the contract. rates may be adjusted only as a result of revisions to prevailing rates provided by the Secretary of Labor. The option provision may exercised more than once, but the total extension of performance hereunder shall not to exceed 6 months. The Contracting Officer exercise the option by written notice to the Contractor within 5 of the end of the contract period of performance.

PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS**SECTION J - LIST OF ATTACHMENTS****J.1 LIST OF ATTACHMENTS**

EXHIBIT OR ATTACHMENT	NUMBER OF PAGES
1. Drawing of Sterile Insect Release Machine.	1
2. Drawing Showing Opening for the Installation of the chute(s).	1
3. U. S. Department of Labor, Wage Determination No. 1994-2125, Revision 15, Dated July 10, 2001.	8
4. SF-LLL, Disclosure of Lobbying Activities and Instruction Sheet.	2
5. SF-LLLA, Continuation Sheet.	1
6. SF-294, Subcontracting Report for Individual Cotnracts with General Instructions.	2
7. SF-295, Summary Subcontract Report General Instructions.	2
8. Federal Contractor Veterans Employment Report VETS-100.	2

PART IV - REPRESENTATIONS AND INSTRUCTIONS

SECTION K - REPRESENTATIONS, CERTIFICATIONS, AND
OTHER STATEMENTS OF OFFERORSK.1 52.203-2 CERTIFICATE OF INDEPENDENT PRICE
DETERMINATION (APR 1985)

(a) The offeror certifies that--

- (1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered;
- (2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and
- (3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory--

- (1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) of this provision; or
- (2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) of this provision

[Insert full name of person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the offeror's organization];

K.1 (Continued)

- (ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) of this provision have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) of this provision; and
 - (iii) As an agent, has not personally participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) of this provision.
- (c) If the offeror deletes or modifies subparagraph (a)(2) of this provision, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

K.2 52.204-3 TAXPAYER IDENTIFICATION (OCT 1998)**(a) Definitions.**

"Common parent," as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

"Taxpayer Identification Number (TIN)," as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

- (b) All offerors must submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements described in Federal Acquisition Regulation (FAR) 4.904, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.
- (c) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.
- (d) Taxpayer Identification Number (TIN).

K.2 (Continued)

☐ TIN:_____.

☐ TIN has been applied for.

☐ TIN is not required because:

☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

☐ Offeror is an agency or instrumentality of a foreign government;

☐ Offeror is an agency or instrumentality of the Federal Government.

(e) Type of organization.

☐ Sole proprietorship;

☐ Partnership;

☐ Corporate entity (not tax-exempt);

☐ Corporate entity (tax-exempt);

☐ Government entity (Federal, State, or local);

☐ Foreign government;

☐ International organization per 26 CFR 1.6049-4;

☐ Other_____.

(f) Common parent.

☐ Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.

☐ Name and TIN of common parent:

Name _____

TIN _____

K.3 52.204-5 WOMEN-OWNED BUSINESS (OTHER THAN SMALL BUSINESS) (MAY 1999)

(a) Definition. Women-owned business concern, as used in this provision, means a concern that is at least 51 percent owned

K.3 (Continued)

by one or more women; or in the case of any publicly owned business, at least 51 percent of its stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

- (b) Representation. [Complete only if the offeror is a women-owned business concern and has not represented itself as a small business concern in paragraph (b)(1) of FAR 52.219-1, Small Business Program Representations, of this solicitation.] The offeror represents that it ☐ is a women-owned business concern.

K.4 52.209-5 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (JAN 2001) [This date stayed indefinitely. Please use the provision date below.]
52.209-5 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (APR 2001)

- (a) (1) The Offeror certifies, to the best of its knowledge and belief, that--
- (i) The Offeror and/or any of its Principals--
 - (A) Are ☐ are not ☐ presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;
 - (B) Have ☐ have not ☐, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; **[This language stayed indefinitely. Please use paragraph (a)(1)(i)(D) below.]**
 - (C) Are ☐ are not ☐ presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision; and **[This language stayed indefinitely. Please use paragraph (a)(1)(i)(E) below.]**

K.4 (Continued)

- (D) Have ☐ Have not ☐, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and
- (E) Are ☐ are not ☐ presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(1)(i)(D) of this provision.
- (ii) (A) **[This paragraph (a)(1)(ii) is stayed indefinitely.]** The Offeror, aside from the offenses enumerated in paragraphs (a)(1)(i)(A), (B), and (C) of this provision, has ☐ has not ☐ within the past three years, relative to tax, labor and employment, environmental, antitrust, or consumer protection laws--
- (1) Been convicted of a Federal or State felony (or has any Federal or State felony indictments currently pending against them); or
 - (2) Had a Federal court judgment in a civil case brought by the United States rendered against them; or
 - (3) Had an adverse decision by a Federal administrative law judge, board, or commission indicating a willful violation of law.
- (B) If the offeror has responded affirmatively, the offeror shall provide additional information if requested by the Contracting Officer; and
- (iii) The Offeror has ☐ has not ☐, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

K.4 (Continued)

- (2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES AND THE MAKING OF A FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER SECTION 1001, TITLE 18, UNITED STATES CODE.

- (b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.
- (d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

K.5 52.215-6 PLACE OF PERFORMANCE (OCT 1997)

- (a) The offeror or respondent, in the performance of any contract resulting from this solicitation, [] intends, [] does not intend [check applicable block] to use one or more plants or facilities located at a different address from the address of the offeror or respondent as indicated in this proposal or response to request for information.
- (b) If the offeror or respondent checks "intends" in paragraph (a) of this provision, it shall insert in the following spaces the required information:

Place of Performance (Street Address, City, State, County, Zip Code)	Name and Address of Owner and Operator of the Plant or Facility if Other than Offeror or Respondent
_____	_____
_____	_____
_____	_____

**K.6 52.219-1 SMALL BUSINESS PROGRAM REPRESENTATIONS
(MAY 2001) Alternate I (OCT 2000)**

- (a) (1) The North American Industry Classification System (NAICS) code for this acquisition is 541990.
- (2) The small business size standard is no more than \$05.0 MILLION average annual receipts for an offeror's preceeding 3 FYs.
- (3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.
- (b) Representations.
- (1) The offeror represents as part of its offer that it [] is, [] is not a small business concern.
- (2) [Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents, for general statistical purposes, that it [] is, [] is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.
- (3) [Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents as part of its offer that it [] is, [] is not a women-owned small business concern.
- (4) [Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents as part of its offer that it [] is, [] is not a veteran-owned small business concern.

K.6 (Continued)

- (5) [Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (b)(4) of this provision.] The offeror represents as part of its offer that it [] is, [] is not a service-disabled veteran-owned small business concern.
- (6) [Complete only if offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents, as part of its offer, that--
- (i) It [] is, [] is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal office of ownership, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR Part 126; and
 - (ii) It [] is, [] is not a joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (b)(6)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. [The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture:

Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

(c) Definitions. As used in this provision--

"Service-disabled veteran-owned small business concern"--

(1) Means a small business concern--

- (i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and
- (ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

K.6 (Continued)

- (2) "Service-disabled veteran" means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

"Small business concern" means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (a) of this provision.

"Veteran-owned small business concern" means a small business concern--

- (1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and
- (2) The management and daily business operations of which are controlled by one or more veterans.

"Women-owned small business concern," means a small business concern--

- (1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and
- (2) Whose management and daily business operations are controlled by one or more women.

(d) Notice.

- (1) If this solicitation is for supplies and has been set aside, in whole or in part, for small business concerns, then the clause in this solicitation providing notice of the set-aside contains restrictions on the source of the end items to be furnished.
- (2) Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small, HUBZone small, small disadvantaged, or women-owned small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to section 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall--

K.6 (Continued)

- (i) Be punished by imposition of fine, imprisonment, or both;
- (ii) Be subject to administrative remedies, including suspension and debarment; and
- (iii) Be ineligible for participation in programs conducted under the authority of the Act.

**K.7 52.219-22 SMALL DISADVANTAGED BUSINESS STATUS
(OCT 1999)**

- (a) General. This provision is used to assess an offeror's small disadvantaged business status for the purpose of obtaining a benefit on this solicitation. Status as a small business and status as a small disadvantaged business for general statistical purposes is covered by the provision at FAR 52.219-1, Small Business Program Representation.
- (b) Representations.
 - (1) General. The offeror represents, as part of its offer, that it is a small business under the size standard applicable to this acquisition; and either--
 - [] (i) It has received certification by the Small Business Administration as a small disadvantaged business concern consistent with 13 CFR 124, Subpart B; and
 - (A) No material change in disadvantaged ownership and control has occurred since its certification;
 - (B) Where the concern is owned by one or more disadvantaged individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and
 - (C) It is identified, on the date of its representation, as a certified small disadvantaged business concern in the database maintained by the Small Business Administration (PRO-Net); or
 - [] (ii) It has submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in

K.7 (Continued)

disadvantaged ownership and control has occurred since its application was submitted.

- (2) ☐ For Joint Ventures. The offeror represents, as part of its offer, that it is a joint venture that complies with the requirements at 13 CFR 124.1002(f) and that the representation in paragraph (b)(1) of this provision is accurate for the small disadvantaged business concern that is participating in the joint venture. [The offeror shall enter the name of the small disadvantaged business concern that is participating in the joint venture:_____.]
- (c) Penalties and Remedies. Anyone who misrepresents any aspects of the disadvantaged status of a concern for the purposes of securing a contract or subcontract shall--
- (1) Be punished by imposition of a fine, imprisonment, or both;
 - (2) Be subject to administrative remedies, including suspension and debarment; and
 - (3) Be ineligible for participation in programs conducted under the authority of the Small Business Act.

K.8 52.222-22 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FEB 1999)

The offeror represents that--

- (a) It ☐ has, ☐ has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation;
- (b) It ☐ has, ☐ has not filed all required compliance reports; and
- (c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

K.9 52.222-25 AFFIRMATIVE ACTION COMPLIANCE (APR 1984)

The offeror represents that

- (a) It ☐ has developed and has on file, ☐ has not developed and does not have on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2); or
- (b) It ☐ has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

**K.10 52.223-13 CERTIFICATION OF TOXIC CHEMICAL RELEASE
REPORTING (OCT 2000)**

(a) Submission of this certification is a prerequisite for making or entering into this contract imposed by Executive Order 12969, August 8, 1995.

(b) By signing this offer, the offeror certifies that--

(1) As the owner or operator of facilities that will be used in the performance of this contract that are subject to the filing and reporting requirements described in section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023) and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106), the offeror will file and continue to file for such facilities for the life of the contract the Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of EPCRA and section 6607 of PPA; or--

(2) None of its owned or operated facilities to be used in the performance of this contract is subject to the Form R filing and reporting requirements because each such facility is exempt for at least one of the following reasons: **(Check each block that is applicable.)**

☐ (i) The facility does not manufacture, process, or otherwise use any toxic chemicals listed under section 313(c) of EPCRA, 42 U.S.C. 11023(c);

☐ (ii) The facility does not have 10 or more full-time employees as specified in section 313(b)(1)(A) of EPCRA, 42 U.S.C. 11023(b)(1)(A);

☐ (iii) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);

☐ (iv) The facility does not fall within Standard Industrial Classification Code (SIC) major groups 20 through 39 or their corresponding North American Industry Classification System (NAICS) sectors 31 through 33; or

☐ (v) The facility is not located within any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, or any other territory or possession over which the United States has jurisdiction.

**K.11 AGAR 452.222-70 COMPLIANCE WITH VETERANS EMPLOYMENT
REPORTING REQUIREMENTS (JAN 1999) (DEVIATION) (USDA)**

- (a) The Offeror represents that, if it is subject to the reporting requirements of 38 U.S.C. 4212 (d) (i.e., the VETS-100 report required by FAR clause 52.222-37, Employment Reports on Disabled Veterans and Veterans of the Vietnam Era), it **has []**, **has not []**, submitted the most recent report required by 38 U.S.C. 4212(d).
- (b) An offeror who checks "has not" may not be awarded a contract until the required report is filed.

**SECTION L - INSTRUCTIONS, CONDITIONS, AND
NOTICES TO OFFERORS**

**L.1 52.252-1 SOLICITATION PROVISIONS INCORPORATED
BY REFERENCE (FEB 1998)**

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es):

www.arnet.gov/far

**I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1)
PROVISIONS**

NUMBER	TITLE	DATE
52.214-34	SUBMISSION OF OFFERS IN THE ENGLISH LANGUAGE	APR 1991
52.214-35	SUBMISSION OF OFFERS IN U.S. CURRENCY	APR 1991

**L.2 52.204-6 DUNS UNIVERSAL NUMBERING SYSTEM
(DUNS) NUMBER (JUNE 1999)**

- (a) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" followed by the DUNS number that identifies the offeror's name and address exactly as stated in the offer. The DUNS number is a nine-digit number assigned by Dun and Bradstreet Information Services.
- (b) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one. A DUNS number will be provided immediately by telephone at no charge to the offeror. For information on obtaining a DUNS number, the offeror, if located within the United States, should call Dun and Bradstreet at 1-800-333-0505. The offeror should be prepared to provide the following information:
- (1) Company name.
 - (2) Company address.
 - (3) Company telephone number.
 - (4) Line of business.

L.2 (Continued)

- (5) Chief executive officer/key manager.
- (6) Date the company was started.
- (7) Number of people employed by the company.
- (8) Company affiliation.

- (c) Offerors located outside the United States may obtain the location and phone number of the local Dun and Bradstreet Information Services office from the Internet Home Page at <http://www.customerservice@dnb.com>. If an offeror is unable to locate a local service center, it may send an e-mail to Dun and Bradstreet at globalinfo@mail.dnb.com.

L.3 52.215-1 INSTRUCTIONS TO OFFERORS--COMPETITIVE ACQUISITION (MAY 2001) Alternate I (OCT 1997)

- (a) Definitions. As used in this provision--

"Discussions" are negotiations that occur after establishment of the competitive range that may, at the Contracting Officer's discretion, result in the offeror being allowed to revise its proposal.

"In writing," "writing," or "written" means any worded or numbered expression that can be read, reproduced, and later communicated, and includes electronically transmitted and stored information.

"Proposal modification" is a change made to a proposal before the solicitation's closing date and time, or made in response to an amendment, or made to correct a mistake at any time before award.

"Proposal revision" is a change to a proposal made after the solicitation closing date, at the request of or as allowed by a Contracting Officer as the result of negotiations.

"Time", if stated as a number of days, is calculated using calendar days, unless otherwise specified, and will include Saturdays, Sundays, and legal holidays. However, if the last day falls on a Saturday, Sunday, or legal holiday, then the period shall include the next working day.

- (b) Amendments to solicitations. If this solicitation is amended, all terms and conditions that are not amended remain unchanged. Offerors shall acknowledge receipt of any amendment to this solicitation by the date and time specified in the amendment(s).

- (c) Submission, modification, revision, and withdrawal of proposals.

- (1) Unless other methods (e.g., electronic commerce or facsimile) are permitted in the solicitation, proposals

L.3 (Continued)

and modifications to proposals shall be submitted in paper media in sealed envelopes or packages (i) addressed to the office specified in the solicitation, and (ii) showing the time and date specified for receipt, the solicitation number, and the name and address of the offeror. Offerors using commercial carriers should ensure that the proposal is marked on the outermost wrapper with the information in paragraphs (c)(1)(i) and (c)(1)(ii) of this provision.

(2) The first page of the proposal must show--

- (i) The solicitation number;
- (ii) The name, address, and telephone and facsimile numbers of the offeror (and electronic address if available);
- (iii) A statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation and agreement to furnish any or all items upon which prices are offered at the price set opposite each item;
- (iv) Names, titles, and telephone and facsimile numbers (and electronic addresses if available) of persons authorized to negotiate on the offeror's behalf with the Government in connection with this solicitation; and
- (v) Name, title, and signature of person authorized to sign the proposal. Proposals signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the issuing office.

(3) Submission, modification, revision, and withdrawal of proposals.

- (i) Offerors are responsible for submitting proposals, and any modifications or revisions, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that proposal or revision is due.
- (ii) (A) Any proposal, modification, or revision received at the Government office designated in the solicitation after the exact time specified for receipt of offers is "late" and will not be considered unless it is received before award is made, the Contracting Officer

L.3 (Continued)

determines that accepting the late offer would not unduly delay the acquisition; and--

- (1) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of proposals; or
 - (2) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers; or
 - (3) It is the only proposal received.
- (B) However, a late modification of an otherwise successful proposal that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.
- (iii) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the proposal wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.
 - (iv) If an emergency or unanticipated event interrupts normal Government processes so that proposals cannot be received at the office designated for receipt of proposals by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation, the time specified for receipt of proposals will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.
 - (v) Proposals may be withdrawn by written notice received at any time before award. Oral proposals in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile proposals, proposals may be withdrawn via facsimile received at any time before award, subject to the conditions specified in the provision at 52.215-5, Facsimile Proposals. Proposals may be withdrawn in person by an offeror

L.3 (Continued)

or an authorized representative, if the identity of the person requesting withdrawal is established and the person signs a receipt for the proposal before award.

- (4) Unless otherwise specified in the solicitation, the offeror may propose to provide any item or combination of items.
- (5) Offerors shall submit proposals in response to this solicitation in English, unless otherwise permitted by the solicitation, and in U.S. dollars, unless the provision at FAR 52.225-17, Evaluation of Foreign Currency Offers, is included in the solicitation.
- (6) Offerors may submit modifications to their proposals at any time before the solicitation closing date and time, and may submit modifications in response to an amendment, or to correct a mistake at any time before award.
- (7) Offerors may submit revised proposals only if requested or allowed by the Contracting Officer.
- (8) Proposals may be withdrawn at any time before award. Withdrawals are effective upon receipt of notice by the Contracting Officer.
- (d) Offer expiration date. Proposals in response to this solicitation will be valid for the number of days specified on the solicitation cover sheet (unless a different period is proposed by the offeror).
- (e) Restriction on disclosure and use of data. Offerors that include in their proposals data that they do not want disclosed to the public for any purpose, or used by the Government except for evaluation purposes, shall--

- (1) Mark the title page with the following legend:

This proposal includes data that shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed--in whole or in part--for any purpose other than to evaluate this proposal. If, however, a contract is awarded to this offeror as a result of--or in connection with--the submission of this data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Government's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in sheets **[insert numbers or other identification of sheets]**; and

L.3 (Continued)

- (2) Mark each sheet of data it wishes to restrict with the following legend:

Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal.

(f) Contract award.

- (1) The Government intends to award a contract or contracts resulting from this solicitation to the responsible offeror(s) whose proposal(s) represents the best value after evaluation in accordance with the factors and subfactors in the solicitation.
- (2) The Government may reject any or all proposals if such action is in the Government's interest.
- (3) The Government may waive informalities and minor irregularities in proposals received.
- (4) The Government intends to evaluate proposals and award a contract after conducting discussions with offerors whose proposals have been determined to be within the competitive range. If the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals. Therefore, the offeror's initial proposal should contain the offeror's best terms from a price and technical standpoint.
- (5) The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit cost or prices offered, unless the offeror specifies otherwise in the proposal.
- (6) The Government reserves the right to make multiple awards if, after considering the additional administrative costs, it is in the Government's best interest to do so.
- (7) Exchanges with offerors after receipt of a proposal do not constitute a rejection or counteroffer by the Government.
- (8) The Government may determine that a proposal is unacceptable if the prices proposed are materially unbalanced between line items or subline items. Unbalanced pricing exists when, despite an acceptable

L.3 (Continued)

total evaluated price, the price of one or more contract line items is significantly overstated or understated as indicated by the application of cost or price analysis techniques. A proposal may be rejected if the Contracting Officer determines that the lack of balance poses an unacceptable risk to the Government.

- (9) If a cost realism analysis is performed, cost realism may be considered by the source selection authority in evaluating performance or schedule risk.
- (10) A written award or acceptance of proposal mailed or otherwise furnished to the successful offeror within the time specified in the proposal shall result in a binding contract without further action by either party.
- (11) The Government may disclose the following information in postaward debriefings to other offerors:
 - (i) The overall evaluated cost or price and technical rating of the successful offeror;
 - (ii) The overall ranking of all offerors, when any ranking was developed by the agency during source selection;
 - (iii) A summary of the rationale for award; and
 - (iv) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.

L.4 52.216-1 TYPE OF CONTRACT (APR 1984)

The Government contemplates award of a firm-fixed price requirements contract resulting from this solicitation.

L.5 52.233-2 SERVICE OF PROTEST (AUG 1996)

- (a) Protests, as defined in Section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from:

Robert J. Crowther

USDA, APHIS, MRP-Business Services-Contract
Butler Square, Fifth Floor
100 North Sixth Street
Minneapolis, MN 55403

- (b) The copy of any protest shall be received in the office

L.5 (Continued)

designated above within one day of filing a protest with the GAO.

L.6 AGAR 452.204-70 INQUIRIES (FEB 1988)

Inquiries and all correspondence concerning this solicitation should be submitted in writing to the Contracting Officer. Offerors should contact only the Contracting Officer issuing the solicitation about any aspect of this requirement prior to contract award.

L.7 AGAR 452.215-72 AMENDMENTS TO PROPOSALS (FEB 1988)

Any changes to a proposal made by the offeror after its initial submittal shall be accomplished by replacement pages. Changes from the original page shall be indicated on the outside margin by vertical lines adjacent to the change. The offeror shall include the date of the amendment on the lower right corner of the changed pages.

L.8 AGAR 452.219-70 SIZE STANDARD AND NAICS CODE INFORMATION (NOV 1996) (AGAR DEVIATION)

The North American Industrial Classification System (NAIC) Code(s) and business size standard(s) describing the products and/or services to be acquired under this solicitation are listed below:

Contract line item(s): 1,3,and 5
-- NAICS Code 541990
-- Size Standard no more than \$05.0 MILLION average annual receipts for an offeror's preceeding 3 FYs.

L.9 AGAR 452.237-73 EQUIPMENT INSPECTION VISIT (FEB 1988)

Offerors are urged and expected to inspect the equipment on which maintenance or repairs are to be performed and to satisfy themselves regarding all conditions that may affect the cost of contract performance, to the extent that the information is reasonably obtainable. In no event shall failure to inspect the equipment constitute grounds for a claim after contract award.

Offerors are invited to inspect the Insect Dispersal Equipment at Sarasota/Bradenton International (SRQ) Airport - Florida by telephoning Robert J. Crowther on (612) 370-2115 for an appointment.

**L.10 AGAR 452.215-71 INSTRUCTIONS FOR THE PREPARATION OF TECHNICAL AND BUSINESS PROPOSALS (NOV 1996)
ALTERNATE I (NOV 1996)**

(a) General Instructions. Proposals submitted in response to this solicitation shall be furnished in the following format with the

L.10 (Continued)

number of copies as specified below.

- (1) The proposal must include a technical proposal and business proposal. Each of the parts shall be separate and complete so that evaluation of one may be accomplished independently from evaluation of the other. The technical proposal must not contain reference to cost; however, resource information (such as data concerning labor hours and categories, materials, subcontracts, etc.) must be contained in the technical proposal so that the Contractor's understanding of the performance work statement may be evaluated.
- (2) Offerors may, at their discretion, submit alternate proposals or proposals which deviate from the requirement; provided, that an offeror also submit a proposal for performance of the work as specified in the performance work statement.
- (3) The Government will evaluate proposals in accordance with the evaluation criteria set forth in Section M of this solicitation.
- (4) Offerors shall submit their proposal(s) in the following format and quantities specified:
 - (a) 1 copy of the completed, signed offer (Sections A through K of the solicitation package)
 - (b) 4 copies of the technical proposal
 - (c) 4 copies of the business/cost proposal

(b) Technical Proposal Instructions. Technical proposals will be rated, ranked, and evaluated as to whether the proposal will satisfy the requirements of the Government. Therefore, the technical proposal must present sufficient information to reflect a thorough understanding of the requirements and a detailed description of the techniques, procedures and program proposed for achieving the objectives of the performance work statement. Proposals which merely paraphrase the requirements of the Government's performance work statement, or use such phrases as "will comply" or "standard techniques will be employed" will be considered unacceptable and will not be considered further. As a minimum, the proposal must clearly provide the following:

A description of prior similar experience and the availability of aircraft and facilities for modification and installation of Government-furnished equipment, following the format prescribed in Section M.

(c) Business Proposal Instructions.

- (1) Cost proposals shall provide a complete cost breakdown of costs. Depending on your accounting system, the proposal must include breakdowns for the following basic cost

L.10 (Continued)

elements, if applicable, and be consistent with the level effort described in the offerors technical proposal:

- (i) Materials and services. Provide a consolidated priced summary of individual material quantities included in various tasks, orders, or contract line items being proposed and the basis for pricing (vendor quotes, invoice prices, etc.). Include raw materials, parts, components, assemblies, and services to be produced or performed by others. For all items proposed, identify the item and show the source, quantity, and price.
 - (ii) Direct labor. Provide a time-phased (e.g., monthly, quarterly, etc.) breakdown of labor hours, rates, and costs by appropriate category, and furnish bases for estimates.
 - (iii) Indirect costs. Indicate how indirect costs were computed and applied, including cost breakdowns.
 - (iv) Other costs. List all other costs not otherwise included in the categories described above (e.g., special tooling, travel, computer and consulting services, preservation, packaging and packing, spoilage and rework, Federal excise tax on finished articles, general and administrative expenses, profit, etc.) and provide bases for pricing.
- (2) Proposals shall include financial statements for the last two years, including an interim statement for the current year, unless previously provided to the office issuing the solicitation, in which case a statement as to when and where this information was provided may be furnished instead. Specify the financial capacity, working capital and other resources available to perform the contract without assistance from any outside source. Provide the name, location, and intercompany pricing policy for other divisions, subsidiaries, parent company, or affiliated companies that will perform work or furnish materials under this contract.

SECTION M - EVALUATION FACTORS FOR AWARD**M.1 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)**

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es):

www.arnet.gov/far

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) PROVISIONS

NUMBER	TITLE	DATE
52.217-5	EVALUATION OF OPTIONS	JUL 1990

M.2 AGAR 452.216-72 EVALUATION QUANTITIES -- INDEFINITE DELIVERY CONTRACT (FEB 1988)

To evaluate offers for award purposes, the Government will apply the offeror's proposed fixed-prices/rates to the estimated quantities included in the solicitation, and will add other direct costs if applicable.

M.3 EVALUATION FACTORS FOR AWARD

The Government will make award to the responsible offeror whose proposal conforms to solicitation requirements and represents the "best value" to the Government, technical quality and cost or price and other price-related factors considered. For this solicitation, the combined weight of technical factors are significantly more important than cost or price and other price-related factors. In determining best value, cost or price and other price-related factors will not be weighted.

The following technical evaluation factors and subfactors are weighted equally:

TECHNICAL PROPOSAL

1. Past Performance Offerors shall provide a list of all contracts/clients for aerial dispersal or similar projects or services. Include the name of the firm, point of contact, their telephone and

M.3 (Continued)

facsimile numbers, their e-mail address, contract or purchase order number, date of award, dollar value of purchase order/ contract, and a brief narrative of the service, problems encountered, and corrective action taken. The Government may contact these firms for feedback on the following performance criteria. **FAILURE TO PROVIDE CLIENT INFORMATION AS REQUESTED MAY RENDER AN OFFEROR NON-RESPONSIVE AND INELIGIBLE FOR AWARD.**

a. Schedule Compliance - Past performance will be evaluated with regard to the offerors adherence to work schedules and completion of projects/work assignments on-time.

b. Quality of Service - Quality of service will be evaluated with respect to the offerors compliance with terms and conditions of prior purchase order/contract, technical excellence, and the appropriateness of the personnel used in the performance of the purchase order/contract.

c. Business Relations - The number and severity of problems encountered on prior organizational projects (purchase orders/contracts) and the responsiveness and effectiveness of corrective actions taken will be examined.

2. PRIOR EXPERIENCE - Prior experience will be evaluated in terms of organizational experience with aerial dispersal of sterile insects, sterile insect technique, or similar projects (describe experience), and the following specialized functional areas:

a. Conducting flight operations in highly congested air traffic areas. Describe experience.

b. Operating GPS electronic guidance and flight data recording systems. Describe experience.

c. Shop facility and skilled personnel to modify and install Government-furnished special purpose equipment (refrigerated insect release machine) in aircraft. Submit information on shop facility, and describe the experience of the employees that will be responsible for installing Government-furnished equipment.

BUSINESS PROPOSAL**1. Risk Assessment**

Offerors shall provide cost information in accordance with the instructions for preparation of proposals located in Section L of this solicitation. Proposals will be evaluated for "cost realism" as it relates to the level of effort required for to perform the services required by this contract and the technical approach described in the offerors technical proposal (detailed work plan).

For the purpose of this solicitation, cost realism means the costs in the offerors proposal are (1) realistic for the work to be performed; (2) reflect a clear understanding of the requirements; (3)

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are consistent with the various elements of the offerors technical proposal; and (4) are allocable, reasonable, and allowable under Federal Acquisition Regulation (FAR) Part 31 (Contract Cost Principles and Procedures).